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**ARGUMENTS AND SPEECHES  
OF  
WILLIAM MAXWELL EVARTS**

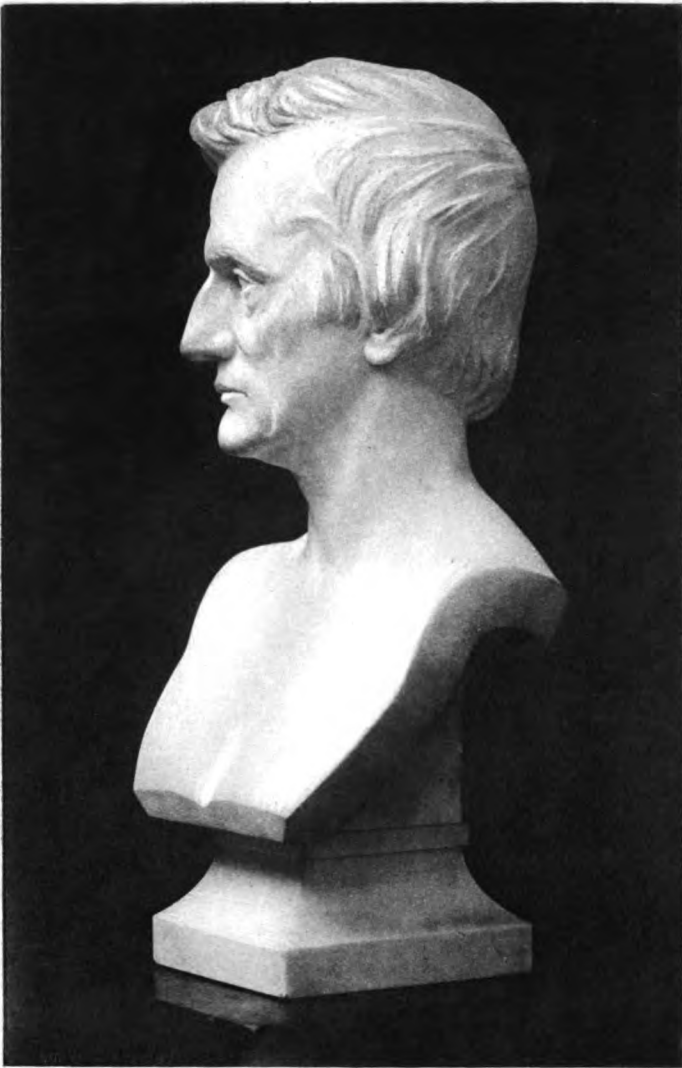


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ARGUMENTS AND SPEECHES  
OF  
WILLIAM MAXWELL EVARTS

EDITED, WITH AN INTRODUCTION, BY HIS SON

SHERMAN EVARTS

*WILLIAM MAXWELL EVARTS*

*From the marble bust made by Augustus Saint-Gaudens,  
Sculptor, in 1873. The property of his daughter,  
Miss Mary Evarts.*

*In Three Volumes*

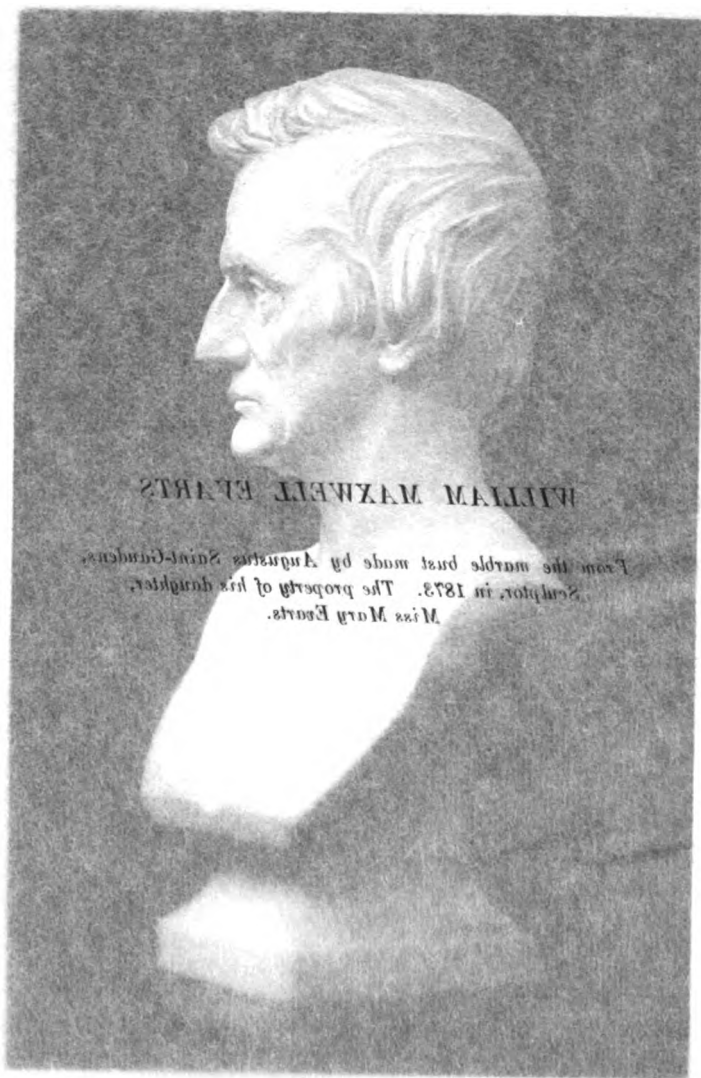
VOL. III

New York  
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1919

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## **COMMEMORATIVE ADDRESSES**





# I

## PUBLIC LIFE

ORATION DELIVERED BEFORE THE LINONIAN SOCIETY, YALE  
COLLEGE, JULY 27, 1853

### NOTE

The first of what Mr. Evarts was wont to speak of as his "set orations" was delivered at the celebration of the one hundredth anniversary of the founding of the Linonian Society of Yale College, one of the then famous debating societies which filled an important place in the intellectual life of Yale students of that day. The celebration was set for Wednesday, July 27, 1853, the day preceding Commencement, and was deemed, by graduates and undergraduates alike, worthy of elaborate preparation and an occasion of great public interest.

On the morning of the day set, at the close of the general meeting of the Alumni, which was held in Alumni Hall, a procession was formed on the college green and proceeded down Chapel Street and through the New Haven Green to North Church where the public literary exercises of the occasion were to be held.

We take from a contemporary account of the celebration the following:—

### ORDER OF PROCESSION

THE UNDERGRADUATE STUDENTS OF YALE COLLEGE,  
In the order of classes, the Freshmen taking the lead.

### MUSIC.

THE TWO PRESIDENTS OF THE DAY, THE ORATOR, POET, AND  
CHAPLAIN,

Escorted by the Committee of Arrangements.

THE PRESIDENT OF YALE COLLEGE.

THE GOVERNOR AND LIEUTENANT GOVERNOR OF THE STATE.  
THE HONORABLE AND REVEREND MEMBERS OF THE CORPORATION.

## THE FACULTY OF YALE COLLEGE

Including the Officers of the Professional and Scientific Schools.

INVITED GUESTS, AND GRADUATES OF OTHER COLLEGES.

HONORARY MEMBERS OF THE LINONIAN SOCIETY.

## GRADUATES OF YALE COLLEGE,

In the Order of Academic Seniority.

It is interesting to find in the account referred to, the names of many men, at the time undergraduates or very recent graduates, officially participating in the celebration, who afterwards rose to great eminence in their several vocations.

At the entrance to North Church (to quote further from the account) "the undergraduates opened to the right and left, allowing the remainder of the procession to enter first, and then following in reverse order from that in which they marched.

"The procession when seated, completely covered the floor of the spacious edifice, while the galleries were occupied by ladies who had been admitted at an earlier hour. The venerable President Day, a Linonian of the class of 1795, presided during the exercises in the Church. After prayer had been offered by Rev. W. T. Dwight, D. D., of Portland, Me., a Linonian of the class of 1813, an oration on Public Life, in connection with which this account is published, was delivered by William M. Evarts, Esq., of New York City, a Linonian of the class of 1837. He was followed by Francis M. Finch, Esq., of Ithaca, N. Y., a Linonian of the class of 1849 who delivered a poem, which is also prefixed to this account of the celebration." The poet of the occasion afterwards became the distinguished judge of the New York Court of Appeals.

At the close of the proceedings in the church the company returned to Alumni Hall where the tables were spread for the dinner that marked the celebration, at which "the Hon. Daniel Lord, LL. D. of New York, a Linonian of the class of 1814," presided. The toasts and speeches were many and lengthened the festivities to a late hour in the afternoon. No other record remains of Mr. Evarts's participation in this portion of the programme than the following allusion in the contemporary account:—"The sixth

regular sentiment was then received with loud applause: The Oration of the Day. Mr. Evarts responded in a few brief and humorous remarks."

## ORATION

*Mr. President and Gentlemen of the Linonian Society:*

The student of Yale College who attends its accustomed annual celebrations, is drawn by a double but scarce a divided attraction. The first impulse of his heart and the first duty of his filial relation, alike require that the chief offering of his respect should be paid to the venerable University itself; and his earliest solicitude should be to learn of its condition, to add his tribute of joy to its prosperity, his ready aid to shield it from even the menace of danger, to guard it from the possible access of evil. The serene dignity, and worth and learning, which fill its places of authority; the bright intelligence, the noble ardor, the generous impulse, which radiate from the full ranks of its scholars; the crowd of associations with which its grounds, its groves, its buildings are peopled,—these all fasten their influences, perhaps long strange to him, upon the returned wanderer, and he bows in reverence to the solemn charm.

But no student of Yale, coming up to its high festivities, suffers these sentiments of affection and veneration towards the College itself to exclude from a just share of his consideration and regard the literary Society with which, in his academic course, he was connected. The valuable benefits which its discipline afforded him, the full treasury of moral, intellectual and social influences there gathered and ever since attending him, attract his love and gratitude to the scene and the means of these instructions and these delights.

The structure of these literary societies, and their relation to the system of education which this ancient and renowned institution of learning affords to the youth who seek its school, are familiar to us all. The College itself, by its

teachers and through its classes, imparts that instruction, whether in science or literature, and gives that development and expansion to the faculties of acquisition and reflection, which form the substantial basis of a *liberal* education. The collective numbers of the students, and the happy circumstances in which they are thrown together, as members of a peculiar community, furnish the excitements and incentives, and kindle the generous, social passions, whose play and impulse upon the growing mind and forming character, constitute the ordinary advantages of a *public* over a *private* instruction.

There remained but one other shape and method of educational impression, to complete the fullness and the efficacy of the nurture and preparation, which the precious years of the academic course might supply, for the manly assumption and discharge of the practical duties of life. This further form and feature of as complete a discipline as the limits of college life would permit, manifestly should have regard to the exercise and invigoration of that portion of man's nature which both fits him for and demands for him, the existence of organized society—to the study of the means and the practice of the arts of moral influence—to an intelligence of the high duties, and an experience of the noble passions, of *public life*. Such were the purposes which might usefully be fulfilled by free and open associations among the students of the University, and the constitution of these societies seems carefully to have observed the necessary conditions of substantial and permanent utility. Formed out of the whole body of the students, upon such casual influences of aggregation as might determine the choice of each individual, the great advantage was secured of a promiscuous collection of all the varied tastes and talents and characters, all the diverse habitudes of past experience, and widely differing schemes for future life, which were included within the ample numbers of the classes.

Such is the institution of which, one hundred years ago, William Wickham and his associates laid the foundation; and such, in general resemblance, with whatever particular diversities, the other literary societies which have been since framed with the same purpose, and by a generous emulation have advanced the common end;

. . . Facies non omnibus una,  
Nec diversa tamen, qualem decet esse sororum.

While, then, we greet the College as the gracious mother of our intellectual life, from whose full breasts we drew the nutriment of learning, it is in this Linonian Society that we, who have met for this centennial commemoration, found the playground and arena, the palæstra, the forum, the *agora*, in which the new-born vigor was exercised and trained. It was here that the faculties acquired were first applied, and here were had the prelude and preparation for the public labors and conflicts of real life.

I speak but the common sentiment of the graduates and friends of Yale College, and of all others who have had occasion to compare the system of education here, and its results, with the methods of other universities, when I attribute no small share of the permanent hold upon the confidence and respect of the whole country which this university has ever retained, to the influence of these great literary societies; when I ascribe to the impulse and the bent given to young minds in their arena no trivial portion of the service which in every province of public activity, the scholars of this discipline have rendered to their generation.

The Catalogue of Linonia is luminous with the great names of men who, in the liberal professions, in the field of science and invention, in every scheme and effort of secular or sacred enterprise, in church and state, have built up and amplified and adorned the fabric of our high social and

political condition. I may not mention the living; but such names as Dwight and Stuart, Whitney and Hillhouse, Mason and Sherman, Kent and Spencer, Calhoun and Grimke, may suffice to remind us that Linonia has had no mean part in that public activity which has led the wonderful march of events, and brought the feeble, dependent, unconnected British Colonies of 1753, with their single million of white inhabitants, to be the great, united, powerful American nation, whose population now gains as large an annual increment.

From this view of the share and influence which the Linonian and its sister societies have had in the instruction and discipline of the alumni of Yale College, and this estimate of the important benefits which have arisen to the community at large from the infusion of such an element into the public education here acquired, I seem naturally led to the theme which I propose for such consideration and illustration as the limits of the occasion may permit—and by a method more suggestive than complete—of Public Life, in our own country and in our own time.

There are but two theories of the origin of civil society; the one teaching that it arose by nature, and the other that it sprang from compact. The various shades of opinion which mark the speculations of political philosophy on this subject, all ultimately melt into the distinctive color of one or the other of these propositions. It was the doctrine of the profound wisdom of Plato and Aristotle, that, though naturally the individual exists before the family, and the family before the state, yet philosophically, the state is prior to the family or the individual, as being the presupposed whole of which they are the constituent parts; and that man attains the full measure of human development only as a member of the state; like as in the generation of physical forms, the production of a part must precede the completion of the whole, yet it is only in the completion of

the whole, and as incorporated therewith, that the part comes to have vital existence according to its end and purpose.

The contrary opinion, that man, by nature self-sufficient, free of social obligations, held to his fellows by no ligaments interwoven with his own heart-strings, *elects* the social condition upon a voluntary calculation of its aids and hindrances to selfish growth, seems to have been matured, wherever its seeds were first sown, in the English mind. Hobbes, and Shaftesbury, and Locke, are the great champions of this theory of the social compact, and stand sponsors to these later times for the prolific brood of mischiefs in society which it has engendered.

Lord Bacon says that every *idea* (as distinguished, doubtless, from a notion or conception) "containeth an endless power of semination"; and we may notice as the first fruits, respectively, of these two ideas, that the former makes society the parent of government, and the latter exalts government into the mould and matrix whence proceed the shape and growth of society. Next in natural procreation arise the two diverse methods or plans for the structure of *new* communities: the one seeking to rear a government upon abstract principles of reason which shall shape the career and destiny of the new-born nation; the other consulting the natural development of the nascent state, and educing from its growth the framework of its controlling sovereignty. Not less unlike are the projects which these contrary theories generate for the redemption of *declining* communities, nor less at variance their interpretations of the phenomena of political revolutions. The one would reinvigorate the decaying state by confirming the forms and administration of government, and regards mutations in the organism of sovereignty as transformations of the society itself. The other searches the foundations, and explores the secret springs which wash and undermine the social structure, and by diverting their course stays the impending ruin; and



scrutinizes the changes, whether of dynasties or of systems, as evidences rather than as results.

Undoubtedly the Grecian opinions, that society is a natural and necessary and not a voluntary condition of man, and that government is the creature of society, and so a part of the system of nature, fell into a course of perversion when they were applied to states constituted under modern and Christian civilization. When the idea of nature, as the source of physical and moral existence and development, was supplanted in the minds of men by the recognition of the living God, and the progress of society was humbly attributed to His superintending providence, the devout conception of *government as the ordinance of God* established itself in the wisdom of the state. No proposition was ever better founded, or more logically deduced, none ever fuller of hope for humanity, none so pregnant with the germs of freedom, advancement, light, power, holiness, to the people of the whole world. Alas! that this profound truth should, by an imperfect intelligence of its significance, have fallen into the doctrine of the *Divine Right of Kings*, and its vital fire been so long smothered in this cold embrace!

Yet the process of this misconception is easily understood. It confounded the substance, which was of God, with the form, which was of man, and forbade, as impiety and profanation, a change in that which had been from the beginning left to the reason of man to shape and mould to his varying circumstances and expanding wants and powers. Civil government is the ordinance of God, as impressed upon the nature of man, to bind together the social state, as is religion to bind man in moral duty to the will of his Maker; it is the purpose of the one, to maintain and secure the observance of reciprocal justice, without which society cannot subsist; it is of the essence of the other that men should worship God in spirit and in truth, and

without this, the race sinks lower and lower towards the level of the brute; to interpret either of these truths to the consecration of civil tyranny, or the maintenance of spiritual despotism, is to war with the best gifts of God.

There is one element in the Grecian idea of the state as the natural and perfect condition of man, which Christianity, bringing "life and immortality to light," has rejected. I mean the opinion that the state is the completed whole, of which the members have their vitality only as a part. This sentiment is the key to that brilliant page in the history of man, the Greek patriotism. The Athenian or the Spartan found in the *state* the image of power and grandeur and permanence, which feeble, lowly, and short-lived man seeks somewhere, as the ideal complement of his imperfect, fleeting, and ineffectual mortal being. For its safety and its glory, in arms, in arts, in poetry, in oratory, in every intellectual labor and every toil of public activity, he poured out the whole faculties of his soul and yielded up his life, at Plataea or Thermopylae, in exile or in prison, in the hope and the belief that the *state* should be immortal. His nobler passions were all concentrated and absorbed in the well-being of the *state*, as an incorporate member of which alone had he any share in the past, any hope in the future, any association with the present.

The Christian doctrine of the immortality of the soul, with its quickening influences now interwoven, in our modern civilization, with all the springs of human action, and tingeing the current of all the social relations, forbids this essential subordination of the individual to the state, and shakes this foundation of enthusiastic patriotism. In its light, this further truth was unfolded from the idea of the state, that though society be the natural and ordained condition of man, and though the law of his own being for this life can be fulfilled only in and through it, yet after all, society, appointed of God and not chosen by man, was

ordained and appointed for the development and education and elevation of the individual; and that the high destiny of the individual, taking hold upon infinities, can never be subordinated to the temporal and material glories of the state, but these glories rather are but means for the culture and expansion of the *moral nature of man*.

In the early spread of the new faith, this encroachment of religious feeling upon the spirit of patriotism, was not unimportant nor unobserved. We are informed by history that the early Christians refused to take any active part in the civil administration or the military defense of the Roman Empire, deeming it impossible, without renouncing a more sacred duty as subjects of a kingdom not of this world, to assume the characters of soldiers, of magistrates, or of princes. As the work of conversion proceeded, the Church, an element in society in substance and in form absolutely new, asserted first its own independence of, next its authority in, and last its supremacy over, the state, and spiritual influence became confounded with and corrupted by temporal splendor and power; at length, declining from this false culmination, it now tends to and, with us, moves in its true orbit of authority and supremacy over man as an individual, and in his moral, not his political relations.

Yet, through the whole of this vast movement, we may trace in the events of history the prodigious influence of this new truth, that the culture and expansion of man's moral nature was the main purpose of society, higher and holier than the grandeur of the state. This living truth, in its sound or perverted influence, kindled and sustained the spirit of the first martyr, and placed the foot of the Pope upon the neck of kings; upheld the tyranny of the Inquisition, and inspired the Protest of the Reformation; drove the Huguenot from France, and led the Puritan to New England; with firm hand severed the realm of conscience and religion from that of civil law and government in the

foundation of our communities; yet beats ever with heavy wave against the barrier, and, when the winds of agitation breathe loudest, chills with its spray and threatens with its surge the domain of the state.

Upon these fundamental ideas of the constitution of society and the purposes for which it exists, the political communities of our nation have been framed; and their several determining forces, in distinction from the contrary opinions, may be easily discerned.

When man's incorporation into society is treated as a *concession* from his natural dignity and independence, extorted by his physical necessities (the method of the social compact), his attitude stimulates a jealous reservation of his *rights*, that he may part with no more upon this compulsory bargain than need be. But, when we regard society as the natural condition of man's dignity and independence, and so an *accession to self*, he at once becomes zealous to know and perform the full measure of his *duties* to the state, that his moral and social faculties may receive their full expansion. The former disposition, avoiding constraint, falls into license and anarchy, which are but other names for tyranny. The latter, seeking for *law*, obtains *matre pulchra filiam pulchriorem—liberty*; for the Roman maxim, *Legum idcirco servi sumus, ut liberi esse possimus*, and the Christian doctrine, "The *truth* shall make you free," alike recognize liberty as the genuine offspring of law, law as the sole parent of liberty. This idea, therefore, prefigured a government of predominant law, and not of will or caprice, whether of one or of many.

The opinion that government was the growth of, and for, society, enforced itself in the restriction of the grant of power from the people, to such purposes and extent as might make it the efficient servant, but never the imperious master; and lives in the common and pervading sentiment forbidding

duty to society to be confounded with, or swallowed up in, loyalty to the state.

And, last, the ennobling truths of the immortal life and of the superintending Providence, withheld from the dominion both of government and of society the constraint of conscience and the prescription of worship, and refuse alike to human law, to loyalty, and to patriotism, what belongs only to religious duty, "rendering unto Cæsar the things that are Cæsar's, but unto God the things that are God's."

It will be readily admitted that these principles, though tending strongly to a democratic constitution and organism of the government, and likely ultimately to produce that form of the state, are yet capable of expression and action through a limited, whether pure or mixed, monarchical or aristocratic system. Fortunately, however, for the success of the original experiment of our governments, both State and Federal, and for their permanent endurance, there was nothing in the interior structure of society which suggested, or could have sustained, any other basis of political power than the *people*, either at large, or in such civil divisions as had appeared. A *free* state presupposes a people so virtuous and intelligent as to desire the vast advantages and be capable of the great burdens of self-government, and affording in quite general distribution adequate wisdom and integrity, as the repository of power and for the administration of public affairs. But a *democratic* government involves the further requirement of the absence of *fixed* grades, ranks, or classes among the citizens who compose the state; and such was the actual arrangement of society in all our colonial communities. This latter prerequisite of the existence of democracy, is not unfrequently confounded, both by its supporters and opponents, with an actual equality among the citizens; a condition of society of which it is difficult to say, whether it be more inconsistent with democratic government, or democratic government more at variance with it.

There never has been and never can be, a level in society, unless it be a low level and a dead level, and every such society has had, and will have, a master.

The general nature and scope of the purposes of our governments thus ascertained, and their form thus determined by causes and processes anterior to human design, there remained for the work of human labor,—a work so great and arduous as generally to have proved too high for either its wisdom or its virtue,—to establish that distribution in the exercise of political power, and provide those methods of selecting its functionaries, which should conform and confine political action to these purposes of government, and secure for the service of the state adequate ability and integrity.

The various political arrangements by which these ends were sought, are chiefly distributable under two leading intentions: First, that both *decree* and *administration* should be kept as near to the people as practicable,—and thus that nothing should be entrusted to the county that could be done by the town, nothing to the State that could be done by the county, and nothing to the general government that could be done by the State; and, second, that when power and discretion were delegated, the whole trust should be, in fact and in good faith, reposed in the delegate, and he be constituted, in his respective function and for his term of office, not an *agent*, but a *ruler*. A disposition of authority based upon this wise intelligence of the true nature of popular government, as no more justly, or possibly, resting upon caprice or mere will and passion of the people, than in a free monarchy upon the caprice or will of the sovereign; but, upon the *deliberative and determining reason of the state*, wherever lodged. Whenever, then, the necessary limits of personal assemblages forbade the consultative deliberation of the people in their natural communities, and resort was had to *representation*, the representation was intended to be

substantial and not formal—to be as the people *would have been* had they come together—not as they are, unassembled, and to generate from the comparison, debate, and reflection of the representatives the resultant of the *public reason*, just as in the general convention of the whole community, were it possible, similar methods would produce an equivalent result. Any less perfect theory of popular representation will effectuate not the social will of the whole, but the selfish will of the predominant part; and will work out, not the collective wisdom of the whole, but the separated notions of the parts; a distinction quite as broad and significant as between mechanical union and chemical solution; a distinction never to be overlooked with impunity. Whether our departures from this true theory are as real in the substance as they are wide on the surface of things, is a topic of deep importance, which will yet arise for our consideration.

We have, then, here in outline, the sphere of Public Life, —its great natural divisions, their respective lawful limits, and mutual relations; the constituent forces which have built up this modern Christian State, and whose energies —harmonious—will ever uphold, enlarge, and advance its prosperous growth, or—discordant—will rend its firm foundations, and sunder its solid frame. For whoever, by a distinct vocation or a particular devotion, labors for the *general good*, either in the intellectual and moral cultivation of man as an individual, or in the advancement of society, or in the maintenance and conduct of government, acts in the sphere of *public life*. *Nec enim is solus reipublicæ prodest, qui candidatos extrahit, et tuetur reos, et de pace belloque censet; sed qui juventutem exhortatur; qui in tanta bonorum præceptorum inopia, virtute instruit animos; qui ad pecuniam luxuriamque cursu ruentes prensat ac retrahit, et, si nihil aliud, certe moratur; in privato publicum negotium agit.*—Not he alone serves the commonwealth, who manages conventions and brings forward candidates, or administers the public justice, or in

Congress decides the grave issues of peace and war; but he, also, who, by the pulpit, the university, or the school, cares for the education of the people; he who cherishes and, by the noble voice of oratory or through the vaster powers of the press, diffuses, *just sentiments*, of which there is ever greatest need, and supplies the sources of virtuous and intelligent action; and he who, by a strenuous public spirit, stays, or at least delays, the ill courses of the times towards private absorption and public apathy; these all, in their several paths of action, lead a public life.

If this description of the sphere, and this designation of the objects and offices of public life, embrace within its comprehension pursuits not usually so considered, it will exclude a class of men and a range of employments which, in common estimation, are carelessly regarded as falling properly within it. As the soul cannot maintain its life in the world but through the gross connections with material nature, which the animal senses and the physical frame supply, so society has not yet (nor will it ever) outgrown the need of forms and organs, and limbs and members, to perform the functions of government. All this shape and structure, as their sole substance, are composed of *men*; and thus, in a great nation, these necessary public services constitute a vast range and variety of employments, which are, to those who fill them, but *private* occupations. The whole army of placemen, therefore, are not necessarily *public men*, nor are those who seek these positions, in their arts and efforts to attain the desired objects devoted to the vital service of society. If they be faithful and laborious, they stand on the same footing as the mass of citizens in their respective avocations; if they be drones, or thrive on the manifold devices of fraud and deceit, they are none the less paupers because they feed at the public crib, or gamblers because they play for a public stake, or poachers because



they invade the public preserve, or robbers because they plunder the coffers of the state.

We may now consider the leading characteristics of that genuine public life, in whatever path pursued, which, as the phrase imports, supplies the essential energies of vitality and growth to the whole body politic.

And, first, it is animated, guided, and controlled by what we may call the social passions, in discrimination from the individual affections; these former are the elements of man's nature which have drawn him into society, as these latter preserve him from being absorbed in it. They are the centripetal and centrifugal tendencies, which—in just equilibrium—produce a free, healthy, harmonious, progressive, expanding society, and—disarranged—engender jars and seditions, or apathy, numbness, and decay. The direct or selfish affections need no nurture or confirmation; implanted as the stronger motives in the natural conduct of man, by that necessity which places self-preservation before culture, which society is formed for, they are never overmastered until they yield to education and religion. There would seem to be no safer truism than that public life should be actuated by public motives, and informed by public views, and that their embrace should comprehend the whole interest involved, and not the interests of parts, however numerous or however predominant. Absolute unity and concert of opinion and action in whatever is of common concern, is the perfect condition of a family, a parish, a town, or a state. The meditative wisdom of public life, therefore, ever strives to compass this ideal end, and to guard against the corruption by which each growing sect and rising party, in design unselfish and striving for this very unity, when it has become predominant, limits its further cares to itself, and labors no longer for the general welfare. What is there more noble in human affairs, than the up-building of a great political party, vital in every part with this true

social energy, and, by the removal of some rooted evil, or by the opening of some new avenue to advancement, seeking the solid good of the whole commonwealth? You may trace the first rise of its principles and propositions, perhaps, to the pure source of some scholar's mind, who has forged, from the genuine ore of learning and on the laboring anvil of thought, some new *idea* of practical utility to the state. Tossed about from mind to mind, and spreading its quickening influences, it soon comes to be received as authentic opinion, and warms and glows to the fervor and the light of a general sentiment. The keen eye of the clever politician discerns the living germ, and his prudent skill saves it from a random or perverse growth, and trains it into the *working theory* of a party. Already a great concourse of favoring voices attends its progress; and its train is swollen not only by the true votaries who seek to lift it into a beneficent power, but by crowds who seek to rise on its wings into the sunshine of favor. The soft breath of moral suasion, the angry wrangle of contentious argument, the sweeping winds of agitation, arouse, excite, inflame the public mind, and the ranks of the faithful throng to the approaching conflict, not unsupported by such large recruits as party tactics, by bounties, by conscription, by impressment, can so well supply. The party gains strength and character; its leaders and champions are recognized, its discipline established, and it fairly takes the field. What generous toils, what long-suffering firmness, what high courage, what strenuous endeavors, what manifold sagacity, what large prudence, what genuine public spirit, fill up the long years of warfare which precede and prepare the triumph.

But, the triumph gained, how sad the process by which the great party, that has done such service to the commonwealth, loses its *public life* in the surrender of the social to selfish passions, and becomes a *faction* seeking its own good, not the welfare of the state! How vile the next degenerate

lapse, when it makes merchandise of the public trust, and is justly denounced as a *conspiracy*!

It cannot well be but that in the public life of a free country, the combinations of party or sectional opinions will urge on their leaders to a point where a decisive choice is presented, to their own clear apprehension, between the good of the country and the advantage of their party or section; and this, too, when the great mass of their party or section deem the two interests identical. Yet, how tragic the fate of the great statesman, who, pushed to this crisis, elects the welfare and permanence of the state, and gathering in his own body the sharp spear-points of calumny and faction aimed at his country's life, wounded in the house of his friends, leaves his memory to the contending judgments of his countrymen, as Satan and the Archangel Michael disputed for the body of Moses!

Not less essential to the true public life, in whatever province pursued, is a clear and definite understanding of the limits and circumference of the social unit, to whose development and perfection the service is to be rendered. As the talents and the character suited to public influence, found faithful over few things, are advanced step by step to wider and wider spheres of action, this promotion must be attended—or, better, prepared—by enlarged sympathies, to fill full the expanding circle. For, whoever in his larger trust, cherishes a secret allegiance to the narrower interest, practices that fraud which men call Jesuitical. Each man must for himself determine whether, as he rises to prominence in the religious world, his heart most yearns towards his sect or dilates to the holy church universal; as he is borne to the head of the great university, whether his affections are still infolded in his special learning or science, or can open to the general symmetry of education; and each, if he be wise, will keep his labors, where they will be useful, within the range of his partialities. So too, when one assumes a part, humble

or high, on the wide theatre of national polity, let him well consider that not here is it renowned Massachusetts, nor proud Virginia, nor yet his adored New England, nor his beloved South, that commands his energies or controls his duty; that the wisdom he brings to *these* public councils, must proceed from an intelligence embracing the entire nation, and the nerve he supplies to *this* public action, must be sensitive to the feeblest and remotest interests of the whole country.

We hear much said about "*Conservatism*" and "*Progress*," as distinct lines or views of conduct in public activity. In the view of society which I have sought to enforce, as a living and not a dead nature, as growing and advancing, and not stagnant or stationary, there is no such opposition in meaning between "conservatism" and "progress" as will support an antithesis, no more than in the terms "health" and "activity." *Permanence* and *change* in the social state, are antagonistic principles, and *Conservative* and *Destructive*, opposing courses. In the moral, as in the physical world, nothing stands still, but ever suffers a mutation, of progress or decline, of development or decay. Those influences conserve a state, as any vital growth, which determine and assist the changes towards progress and development, yet preserve the permanent foundations rooted in the nature of man. Those influences destroy a state, as any vital growth, which assist and determine these changes towards decline and decay, and corrode and crumble these firm foundations. The husbandman is equally conservative of the crop when he sows the wheat and when he plucks up the tares, and the true service of public life may be fulfilled as well by extirpating evils from the state as by cherishing sound institutions. But the enemy is as much a destroyer in sowing tares as if he uprooted the wheat; and the reformer, in planting seeds of discord and sedition, may choke the growth of liberty.

Popular misuse of terms is a mischief of great magnitude, for it begets misdirected popular action; and the true antithesis, of *conservative* and *destructive*, should be established in the public mind. Then we shall have clearer views, on both sides, as to the several duties in the commonwealth, of the philosopher and the lawgiver, of the statesman and the philanthropist.

But, above all, a just appreciation of the true relation of government to society, and a profound study of that magnificent march in human affairs by which society, in its unconscious processes, has come to exert the great forces and discharge the high functions which were originally attributed to the organism of the civil power, should shape the views of him who essays the labors of public influence. He will observe how, in our civilization, the busy ships of a free Commerce, like roving bees, bring to the domestic hive the *selected* riches of the world, and contrast this social process to replenish and amplify the national wealth, with the action of the Roman State, to which war stood for trade, and, by subjugation and annexation, out of the plunder of new provinces fed her failing revenues; or he will admire the wide capacity of this same commerce, which on its silent wings, within ten years has borne hither the vast migration of two million men, and discern the resources which will yet serve the social need to carry an equal migration hence; or, as he more closely watches the track of these same ships across the ocean, he will discover that with each outward and each returning voyage a golden thread of interest is spun, till a flowing mantle of peace is woven over the nations, and may calculate, if he will, the comparative value, as *foreign relations*, of the family compacts of kings, the *entente cordiale* of cabinets, the guaranties, even, of treaties, and these intermingled pulses of the people.

Not less wonderful is the social process of Spontaneous Industry which, in its endless contrivances of production and

its manifold expedients of thrift, builds up the fabric of the general wealth, and by an active course of distribution saves all agrarian dissensions; through its ever-present vigilance which no police can imitate, and a stern power of repression which no standing array can wield, it suppresses all incentives to sedition, and preserves the order of the state. It gently turns the swelling tide of emigration, no matter how vast its volume or how swift its flow, into ten thousand irrigating rills of fruitful labor, converting what, in less advanced society, would have been a desolating invasion, into a fertilizing warmth and vigor.

But it is general *Education*, mental, moral and religious, which most largely relieves government from what, in a state where this influence was absent or feeble, has been its greatest, and is, indeed, in the nature of things always its most essential duty; I mean the institution and enforcement of positive law, and the administration of justice. Permeating the whole community, it lifts larger and larger portions into that moral elevation where they become a law unto themselves, and by the quickened power of conscience, the improved moral perceptions, as well as the sharpened sagacity and intelligence, it both diminishes the occasions of contention and facilitates their adjustment, without burdening the tribunals of the state. "For it is by education," said Aristotle, "I have learned to do from choice, what other men do by constraint of fear."

Resting upon the firm truth that government exists for society, and instructed by these observations, as new changes are proposed or effected in the established forms or powers of sovereignty that seem to derogate from its dignity or impair its strength, its permanence, or its vigor, the votary of public life will seek the true point of anxious scrutiny, and inquire whether society has really outgrown the support or the restraint of government which is to be cut away. If this be so, if society has gained what government is to remit, the

statesman removes the encumbrance or impediment, as the builder breaks away the supporting and forming framework of the compacted arch.

We may now rightly consider the true arena and discipline and exercise of that genuine public spirit and strenuous public activity which devote themselves distinctly to the *political* service of the state.

I have already suggested that the folly of separating consultative deliberation from determinate action, of placing debate where there could be no interchange of diverse opinion, and practical decision where there had been no debate, could not be imputed to the political arrangements in which our governments were framed; for this would be to sever wisdom from administration, reason from will, the head from the body. What solution, consistent with the well-being of the state, shall we then offer to that course of things by which through constitutional interpretation or amendments, the delegated power is ever more and more shortened, the confided trust robbed of its very pith—discretion? How explain, so that it may stand with the public safety, the encroachments which unwritten party usage, irresponsible party conventions, make upon the solemn charters of the governments, and their authentic legislatures? How defend that political custom, by which that sacred trust, the distribution of office, is no longer spontaneous with the established head of the state, as the fountain of honor, but the signet is placed in commission to a thousand self-formed courts of patronage? And, more important than all, how justify that general ill-estimate in which political men and public office are held, that prevalent and effective dissuasion of high patriotic purpose and marked public abilities from the *accredited* service of the commonwealth? These tendencies and these results are not doubtfully discerned, and are neither trivial nor casual.

Now, the theory upon which all this is solved, explained, defended and justified (and whether it be a sound and safe theory is, I suppose, the great practical problem in public life to be worked out by this generation), is, that it is but a readjustment of the division line between the delegated and primary exercise of power, made possible and salutary in the development of society, and so no departure from, but a closer adherence to, the vital principles of popular government. It supposes that a great and ever-increasing portion of the people are, as well by positive instruction as by insensible habit, furnished with that degree of civil prudence which will enable them intelligently to deal with, and, by an equal moral training, are animated by so true a social spirit as will permit them justly to treat, no small proportion both of the general questions of public policy and of the particular occasions of public action, heretofore safely committed only to special experience and selected wisdom;—that the multitude of channels through which the knowledge of facts is collected and diffused, and sentiments and opinions are circulated, and the rapid and vigorous pulsation of all these arteries of public life, no longer confine the practical limit of the consultative deliberations of the people to an actual assemblage of their persons, but inclose it only by the immense boundaries to which education on the one hand and physical invention on the other have enlarged the sphere and power of what we call public opinion; and that so, the force and discretion which seem taken from constituted government, leaving the delegated power but formal where it was once substantial, are but restored to the people in their enlarged capabilities to receive and administer them.

However much we may hesitate to admit the full measure of this claim, we may not refuse to acknowledge that it contains a weighty and substantial truth. The wonderful progress of scientific discovery and mechanical invention has at last brought us to this surprising condition of social



unity, that every day, and as a matter of mere routine, the intelligent community from Portland to New Orleans, from Savannah to Chicago, read the same public information in the same version of it, and the reflecting minds of the whole country are brooding upon the state of affairs in every part, and maturing their judgments concerning it, at the same moment; and when the high debate of public opinion opens, when the powerful writer or the great orator utters the developed sentiment of one region, and confirming echo or bold challenge answers from another,—proposition and reply, assertion and refutation, are alike submitted to the simultaneous judgment of the whole community. Is it, then, mere fiction and hyperbole to speak of a nation of twenty millions as sitting in perpetual council, subjected ever to the same kinds of impression and permeated by the same currents of influence, as swayed the fierce democracy of Athens driven within the scarlet cords of the Lexiarchs, or governed the sober democracy of New England in town-meeting assembled?

Public opinion is the life-blood, and the sources from which its springs are fed, and the channels through which its ceaseless current is maintained, are the vital organs, of the body politic. And as in the natural body the firm frame and skeleton yields to the healthy expansion or the morbid growth of the soft muscles and delicate tissues in which the *life* inheres, so in the Constitution of the state, by the same law, the set forms and established structure of government will be thrust aside, or shaped and controlled in their action, by the overmastering force of public opinion. This subtle power (of which whosoever will write the natural history and perfect the analysis, will perform a most needful service) pervades the atmosphere of public life, as does the ethereal principle of electricity the common air; and from its influence no mode or style or subject of public action is free.

It dictates the enactment and repeal of statutes by the authentic legislative power, or itself enacts and enforces laws which find no place in the statute-book, and annuls or overrides many a one which is there enrolled. It defies and derides the judicial power, or adds unwonted vigor to its decrees, new terror to its penalties. All executive functions seem quickened or paralyzed as its aid is added or withheld; and its imperial rescript predominates, whenever and wherever it is issued.

Under the operation of these causes it would seem, that of the two modes of collecting the sense of the people, through the voice of public opinion and through the legal suffrage, the former were likely to become more and more authentic and authoritative, and the latter to decline more and more to the function of a mere negative, such as, in the Roman constitution, was exerted through the tribunate; and, in like manner, of the two channels of influence in forming the popular sentiments and directing the popular will, that of public opinion or that of the legislative councils, the former will more and more gain in importance over the latter.

From this, the true arena of political influence, a generous ambition is repelled by none of those disgusts which attend the most prosperous career in official promotion. No base compliances, no servile genuflections, no double paltering, no dexterous compromises, are required in that public life which is devoted to the service of arousing, shaping, leading and controlling the public opinion of the country. Freedom of thought, decisive energy in action, inflexibility of purpose, incorruptible integrity, unsuspected sincerity of mind and soul,—these are the qualities which alone can elevate the public man to the lead of public opinion, and sustain him there; these qualities may be wanting, or they may be counterfeited, and the aspirant seem unretarded in his ascent to public *station*; but a firm hold of public *opinion* can never

be long maintained by one deficient in these first elements of a great public character. When the greatest powers of mind have been united with the most splendid gifts of eloquence; when the highest public services have confirmed the popular admiration, and awakened the gratitude of a nation; then, most bitterly for the ambition of their possessor, most sadly for the hope of the commonwealth, and in the last crisis, perhaps, of a noble career, has this one defect of *character* wrought out the ruin of the whole! In times of difficulty and danger, when the perils of action seem only less than those of inactivity, when public sentiment is unformed or greatly divided, the responsible statesman's whole moral power to secure a happy issue, may rest in the fact that the intelligence and force of the country will follow his lead, convinced by no reason but his character, no argument but his life. It is mainly by *character*, that one builds about him that "opinion of mankind, which—fame after death—is superior strength and power in life."

Socrates used to say, "that although no man undertakes a trade he has not learned, even the meanest, yet every one thinks himself qualified for the hardest of all trades, that of government." And we may be sure that this notion has survived the times of Socrates and the Athenian State. However well temporary purposes or particular occasions may be served by mere native talent and ordinary knowledge, the conduct of public affairs through the controlling power of public opinion, can be gained only by a large political prudence, which comprehends a knowledge of mankind and of the arts of government, and, no less, of all the manifold diversities of interest, of character, and of feeling bred by physical circumstances and local institutions among the members of the state. A sound public opinion, at any particular juncture of affairs, is but common sense applied to a correct and comprehensive view of the facts of the

case; and he who is best prepared with the appropriate knowledge, and most thoroughly trained in that penetrative intelligence which touches the very marrow of the controversy, is sure to lead the general sentiment.

Oratory, in a free state, has ever been a main instrument of public influence, and has usually been assigned the first place among the arts of public life. A national history which has shown on the highest theatre of public action the prodigious authority of Washington and Franklin and Jefferson, without a single gift of oratorical power, may well lead us to doubt whether eloquence be so sure a means of superior influence as has been assumed. The truth is that eloquence, as its greatest master has said, is a weapon, and its effect depends chiefly on the force and skill to use it. In public life, this force is character, this skill is civil prudence, and when the bright weapon of oratory is thus wielded, we may limit neither our admiration nor its power. Then, indeed, as in a late illustrious example among our own statesmen, does oratory seem the highest form and most beneficent exercise of human abilities; then the glory of the poet and philosopher grows pale before this effulgent splendor; in them we admire the alchemic art which in the laboratory subdues and digests the elemental powers of nature; but to the "rapt orator" we bow, as to the magician who rides upon the storm and walks unshod over burning coals.

But when the gift of public speech is used for exhibition, or lent to the service of mere dexterous cunning, or, double-tongued, pleads in public controversies for the private fee of office or emolument, or,

Loud, loquacious, turbulent of tongue,  
By shame unawed, by no respect controlled,  
In slander busy, in reproaches bold,

stoops to the tricks of acting and buffoonery, or feeds the unholy fires of faction and sedition, we may yield an un-

willing tribute to perverted talents, but no such homage as gives power over will and action. Such orators, in ever-changing shapes, are all varieties of the Homeric type, Thersites, who embodies talent without character; and in every scene of epic action, they will effect no more than their great original.

And last, whoever would greatly serve the state in its highest and most enduring welfare, must constantly recur to the first principles upon which this complex system of free government, advancing society, and independent individual culture, rests, and, in the nature of things, must be administered. He will watch with jealous eye against the too rapid encroachment of social progress upon the essential vigor of government; he will guard with firm mind against the invasion of the province of conscience and religion by the civil power, and resist, with equal resolution, the extension of spiritual domination within the appropriate sphere of temporal authority. Careless of strifes, however clamorous, which touch no vital interest of the commonwealth, he cannot be too sharp to discern the insidious access or bold approach of influences which threaten to disturb the harmonious and co-operative agencies of a progressive civilization. Attributing to its divine source the "lucid order" by which the forces of just government, free society, and holy religion, conspire for the emancipation of man from all evil, for his elevation to all good, he solves all disputations about "higher law," by reverent yet fearless enforcement of that *highest* law, by which these forces, no longer opposed, move all one way.

*Mr. President and Gentlemen of the Linonian Society:—*

This hour, which divides the past from the coming century, may not take its flight without some deep impression of the responsibility upon us as *educated* men, in a state

of society and at a stage of civilization when intellectual and moral influences hold the reins of power. From this point, as from every other in the career of a nation, there must be progress or decline; and we may not refuse to look the future boldly in the face. The toils of public life ceased not with the plantation, the sustenance, the slow development of these cis-Atlantic communities; nor with the heroic efforts which raised them to a place among the nations of the earth; nor with the great men whose faithful labors for their country have just been ended with their lives. No vain prognostications of greatness and glory will assist their attainment; no idle repose upon the wings of time will waft us onward to that consummation. It was an aphorism with Lord Bacon, that the speculative principles of men in general between the age of twenty and thirty, are the *one great* source of political prophecy. While others read in territorial extension and material aggrandizement the flattering story of our "manifest destiny," or fear from these same causes the downfall of our constituted state, let us find the sources of our hopes or fears in the character, the principles, the opinions of the body of the people, and *there* give our strenuous devotion to confirm every element of strength, there throw our whole energy to succor every weakness.

Let us understand that neither the selfish passions of vanity or ambition, the thirst for glory or the lust of power, nor a sentimental patriotism, nor a philanthropic enthusiasm, are a sufficient basis of the genuine, pure-spirited, laborious *public life*; but the same superior source and vaster energy of motive in which the foundation and up-building of our nation have had their safe and adequate support, must stimulate and consecrate and sustain the public spirit and the public toils by which the fabric of our greatness shall be upheld and amplified; and this is, *duty*. Let us open our minds and expand our hearts to the sublime conception

of the march of history as but the progress towards "the whole redemption of man," and shape our path in public life upon the solemn admonition of political philosophy: "Whatever this world may opine, he who hath not much meditated upon God and the human mind, may possibly make a thriving earthworm, but will indubitably be but a blundering patriot and a sorry statesman."

## II

### THE HERITAGE OF THE PILGRIMS

ORATION DELIVERED BEFORE THE NEW ENGLAND SOCIETY  
OF THE CITY OF NEW YORK, DECEMBER 22, 1854

#### NOTE

The oration entitled "The Heritage of the Pilgrims" was delivered in the Church of the Messiah, New York, December 22, 1854, before the New England Society of the City of New York.

This organization, founded in the year 1805 to promote among its members "friendship, charity and mutual assistance" has been famous principally for its annual celebrations in New York of the landing of the Pilgrim Fathers. In the early years of the society the celebration took the form of a public meeting with an address by some eminent New Englander, followed in some instances by a poem, and a public dinner was given in the evening. This customary form of annual celebration continued with few intermissions down to 1859, and among those who took part as orators of the occasion we find the names of Gardiner Spring, Leonard Bacon, Robert C. Winthrop, Rufus Choate, George Perkins Marsh, Jonathan Prescott Hall, Horace Bushnell, Mark Hopkins, Oliver Wendell Holmes and Richard Salter Storrs. Mr. Webster never acted as orator of the day, but spoke at three of the dinners, notably in 1843, when Rufus Choate delivered the oration.

#### ORATION

Quorum gloriæ neque profuit quisquam laudando,  
nec vituperando quisquam nocuit.

*Mr. President and Gentlemen of the New England Society:—*

The custom by which we celebrate this anniversary would find its sufficient support in the sentiment of ancestral veneration. "The glory of the children is their fathers." Of every worthy stock the not degenerate sons cherish the



names of those from whom by an authentic lineage they trace their honorable descent. With zealous affection and a pious reverence they explore all sources of knowledge respecting their lives, their characters, their motives, their acts. In a spirit neither arrogant nor envious, they are yet jealous for a just estimate of the virtue and the power which marked the founders of their line; careful that no malign or reckless influence shall distort the record, or obscure the remembrance, of their deeds; earnest in the determination that their latest descendants shall lose nothing of their heritage in these great names, in the course of its descent. Nor should it be for a moment supposed that the spirit of our institutions and the structure of our society, which have discarded the hereditary transmission of rank and power, discouraged even the succession of wealth, and made ridiculous the culture of a vulgar family pride, have at all weakened or diverted the force of those natural ties which connect us alike with our ancestry and our posterity, and sustain and protect, as a perpetual and imperishable possession, the glory and worth of our forefathers. Say rather that, as you strip from this heritable relation, all that is false or factitious, all that is casual or valueless, you give new force to this genuine lineage of noble character, this true heirship to greatness of purpose and of action. Upon the recurrence of this day, then, although the great transaction which has made it illustrious, had drawn after it no such magnificent train of consequences as history now attributes to it, although the noble undertaking had attained to no proportionate grandeur of result, it would become us to meet with sincere filial devotion, and add one stone to the monument inscribed in honor of the Puritan exiles, one note to the anthem of their fame.

But the actual course of history has not left the "Landing of the Pilgrims" an isolated or fruitless occurrence, buried in the grave of the past, nor confined its interest to

the private and peculiar considerations which should affect the inheritors of their blood and names. It is as the principal and initial in a still continuing series of great events, as the operative and unexhausted cause of large results already transpired, and larger yet surely to ensue, that we chiefly applaud the transaction of this day. Upon the Rock of Plymouth was pressed the first footstep of that energetic and creative power in human affairs which has since overrun the continent, and is stopped in its sublime progress, if it be stopped at all, only with the shores of the all-containing sea. Through the actual aspect of the scene of the debarkation, made up of wintry sea and gloomy sky, and bleak and desolate coast, we see breaking the effulgence of those moral elements of light and hope which have ever since shone with so conspicuous splendor, and the spot seems to us the brightest and the warmest on the face of the earth; *bright*, as the source and fountain of those radiant glories of freedom in whose glad light we live; *warm*, with the fervent glow of that beneficent activity which pervades and invigorates the life of this whole nation, which has secured the progress of the past and forms the hope of the future.

Ille terrarum mihi, praeter omnes,  
Angelus ridet.

It is New England, as she was first founded, as she has since been established and built up, as she now is,—mother of men, source of great ideas, nurse of great principles, battleground of great conflicts,—that we celebrate in this commemoration.

There is one circumstance in our situation, as assembled here, which cannot escape our attention. We are without the borders of New England, yet no exiles from our country; we are beyond the protection of those governments that still rule over the soil of the Puritan plantations, yet we have neither lost our birthright there, nor are we strangers here;

however generous and cordial has been our reception in the community in which we live, yet we have come hither, and here remain, neither by sufferance nor by any title of courtesy or hospitality; we are here *of right* and *at home*. As it is with us in this central metropolis, so is it with our brethren, the descendants of our common ancestors, in the fair cities of the South, and in the wide valley of the West;

And where the sun, with softer fires,  
Looks on the vast Pacific's sleep;  
The children of the Pilgrim sires,  
This hallowed day, like us, do keep.

New England has enlarged the dominion of her laws over no wider territorial limits than at the first, yet for her expanding population, for her institutions, her customs, her moral, social, political and religious influences, she has received a truly imperial extension. As an integral portion of the great Federal republic, produced by the double act of Independence and of Union, in which she took so large and decisive a part, New England—losing nothing of her local identity and her express individuality—yet has her chief duties and responsibilities at present and in the future; and in every just estimate of what the vital forces of the Puritan character have hitherto effected, or may yet be expected to accomplish, *this* relation of New England must be largely considered.

While the influences of the occasion direct our view mainly to the past, still our contemplations, as it seems to me, would not wisely take the course either of antiquarian curiosity, or of historical research, or controversial attack or vindication. All consultation of the past is vain, unless our questioning find out some key and guide to the future. Man escapes from the unsatisfying present, and lengthens the brief span of his personal existence, by laying hold upon the past, and reaching forward to the future; but of the past

only is he secure, and in it he must find the forest and the quarry from which to hew out the shapely structures of the future. It was an annual custom among the Romans, in the more religious period of their history, as the year approached its close, for the augurs and other high priests to make a solemn observation of the signs, by which they might predict the fortunes of the republic for the coming year. The *augurium salutis*, this presage of the public welfare, may well attend our pious homage to the memory of those who laid the foundations of our commonwealth, for in these foundations shall we find the surest indications of its future fortunes, propitious or adverse. Nor to ourselves shall a brief communion with the stern natures, the elevated motives, the inspiring example of these remarkable men, be without a *personal* benefit; our feebler spirits and lapsing energies may catch some new vigor from this contact with their embalmed virtue, as of old the dead even was revived by touching the bones of the prophet Elisha.

These reflections seem naturally to present as an appropriate theme, for such consideration as the limits of the occasion will permit, The Heritage of the Pilgrims—as we have received it from them, as we are to transmit it to our descendants.

In attempting some analysis of the character, the principles, the conduct of the first settlers of New England, and an estimate of the extent to which they have affected our past, and are to shape our future, history, I should feel greatly embarrassed, were I not assured that the whole general outline of the subject is already in your minds and memories, that the true spirit and temper for its consideration are included in the disposition which unites you in this celebration. Much more should I feel oppressed, did I for a moment suppose that the interest of the occasion was at all dependent upon any novelty of fact or of illustration, or demanded a brilliant rhetoric or elaborate oratory. I know

not what impressions the near examinations of the acts and motives of the Puritan emigrants may produce upon others, but to myself their simple grandeur seems to need no aid from vivid coloring or artful exaggeration, nor to incur much peril from imperfect or inadequate conceptions. Resting upon the imperishable basis of real greatness of soul, their fame no praise can brighten and no censure dim.

The seeds of the movement which was to emancipate religion from prelatical control, and re-establish the equality of men before their common Father, were sown in the English mind by Wickliffe. Though their dissemination had not been sufficient greatly to disturb the quiet of the Church or break the peace of the realm, yet when, one hundred and fifty years afterwards, Luther and Zwingli proclaimed, as with a trumpet, the great Reformation, and raised high the torch of religious liberty, the people of England, from this previous preparation, the more readily accepted the glad tidings, and welcomed the new light. While the pure flames of religious enthusiasm were burning in the hearts of his people, their sovereign, Henry VIII, threw off the Papal dominion upon a question, personal to himself, in which the Pope had proved uncomplaisant to his wishes. He usurped—for, in great measure at least, it was usurpation—the same supremacy in matters of religion which he had wrested from the Pope, and declared himself the head of the English Church, subjected the whole control of its doctrine and discipline to the temporal power, gave to the prelates a new master, but in no degree satisfied the true demand of the movement among his people, freedom of conscience and independency in religion. Preserving still an attachment to the religious tenets of the Church of Rome, he looked with equal disfavor, among his subjects, upon adhesion to the Roman pontiff, and desertion of the Romish faith. The succeeding reigns of his son Edward and his daughter Mary, gave aid and succor, the one to the new religion, the other

to the ancient faith; and when Elizabeth, near the middle of the sixteenth century, assumed the crown, she found a people distracted by religious contentions. The singular position taken by King Henry had tended to divide the realm into three parties,—the Popish recusants, who refused to acquiesce in the royal usurpation of the Pope's spiritual dominion,—the Protestant malcontents, unsatisfied with the rejection of the Pope's temporal authority while so much of the corruption of Popery remained in the ritual and worship,—and the supporters of the Church of England. From the accession of Elizabeth, by education and profession a Protestant, the more zealous reformers counted upon an active co-operation on the part of the Crown in the further emancipation and purification of religion. As matter of personal conviction, the Queen was not so fully weaned from the old faith, but that she retained the crucifix in her own chapel, and attempted its restoration in the churches; and through her whole reign she refused a legal sanction to the marriage of the clergy. But as matter of state policy and government she early adopted, and steadily pursued, a system still more fatal to the hopes of the party of progress in the Church. That great and politic compromise, The Church Establishment, for reasons wise or unwise, she and her statesmen adopted as the true and safe solution of the religious distractions of her people, and *conformity* to its dogmas and ceremonies was exacted alike from the sullen Catholic and the ardent Protestant. What till now had been a war of opinion, and about matters in themselves of much indifference, between the two divisions of Protestants, became a war of persecution by the government upon the offending faction. For non-conformity, to every degree of disfavor and annoyance, were gradually added the graver punishments of stripes, imprisonment, and death.

The party which contended for a more thorough and complete reformation of religion, and against whom the state-

craft of Elizabeth conceived these machinations and executed these oppressions, received from its opponents the name of Puritans. They were neither sectarian nor schismatical—nor, as yet, dissenters; they were the front of the Protestant host in the still pending warfare with the Church of Rome; in their judgment the main battle of Protestantism in England was not completely won, much less its final triumph assured, and they would hold no truce with the ancient superstition. They would tolerate no defence of the surplice and the cap, of the cross in baptism, or the ring in marriage, on the plea that their retention would conciliate the Papists, and reduce that disaffection. With a large part of the people of England still clinging to the old faith, and much the greater portion of the benefices of the Church filled by dissembling Protestants, ready to “resume their mass-books with more alacrity than they had laid them aside,” the Puritan clergy and laity refused their adhesion to the policy of the Crown, and struggled against conformity. To the strenuousness of their resistance to this specious compromise of the rights of conscience for the peace of the realm, it may well be thought, England owes her safety from relapse into Popery.

The party of the Puritans too, was neither small in numbers nor made up from any one class of society. Strongest in London and other large towns, and among the merchants and tradesmen, during the reign of Elizabeth, it also embraced; according to Hallam, a majority of the Protestant gentry of England, and included not a few eminent nobles. The clergy, below the grade of high ecclesiastics, most famous for talents, learning and eloquence, espoused the cause of progress, and so nearly did they come to a majority of the Convocation of 1562, that a proposition to abolish the offensive usages failed by but a single vote; the records of Parliament throughout the reign of Elizabeth show that the control of the Commons was in the hands of the Puritans.

Indeed, things were not far from the condition which they reached in a succeeding reign, when, as Carlyle asserts, "either in conscious act, or in clear tendency, the far greater part of the serious thought and manhood of England had declared itself Puritan." The zeal of persecution did not long suffer the controversy to be waged upon mere forms and ceremonies, but transferred the conflict to a battle for the rights of conscience. The inquiries into the just limitations of might and right in spiritual matters, in turn, were directed to civil affairs, and the train of causes was set at work, which at length overthrew the English monarchy and built up this republic in the West.

I have thus far described the relations of the great body of the Puritans to the Reformation and the English Church, but there was gradually developed among them a sect or division which boldly pushed the questions at issue to their ultimate and legitimate solution; which threw off all connection with the Established Church, rejected alike the surplice and the bishops, the prayer-book and the ceremonies, and, resting upon the Bible, sought no less than to restore the constitution of the Christian Church to the primitive simplicity in which it was first instituted. These Separatists, as they were called, put in practice their theoretical opinions by the formation of churches in which the members were the source of all power and controlled its administration, and, in a word, applied to ecclesiastical organizations principles which, if introduced into civil government, would produce a pure democracy.

In the "mean townlet of Scrooby," in Nottinghamshire, recent investigations have accurately ascertained, was collected the Puritan congregation of Separatists, from which proceeded the first settlement of New England. They united themselves in the simple and solemn compact of a church covenant about the year 1602, and found a place of worship, strangely enough, in an Episcopal manor-house,



belonging to the See of York, but in the tenancy of William Brewster. John Robinson soon became their minister, and for several years they there sustained, as best they might, the persecutions of the civil power, and maintained their worship. This Christian Church, collected from a simple agricultural population in a rude part of England, remote from any great centre of influence, was the seed selected, in the wisdom of Providence, for the plantation of a new community in this Western world. With the formation of this Congregational Church commences the history of New England, for this compacted, organized body, this social unit, made up and fitly framed together in England, and thus as an aggregate and perfect whole, transported to America, made the first settlement at Plymouth.

We at once perceive that we have here before us the ripened germ, ready to be severed from the parent stock, whence was to proceed the future growth, under the eternal law of development by which seeds produce, each after its kind. As yet this little, this peculiar community, had formed no conscious plan or project looking to the foundation of a new society, much less of an independent state. Yet, whatever of preparatory discipline it was to submit to in the interval, whatever circumstances, as yet uncertain, were to determine where and when it should germinate and be developed, the elements of weakness or of strength, the qualities decisive of the growth which should come from it, if any growth it should have, were fixed and complete. Here, then, is the true point at which to observe what were the important elements and qualities both in the individual characters of these men, and in the solemn and intimate bond of connection that held them together,—in reference, always, to their fitness or unfitness as a vehicle for the transfer of the religion and civilization of the old to the new world, and in reference also to the nature of the institutions of which they were suited to become the founders.

In the first place, these emigrants were drawn from the bosom of the English *people*, in distinction from the court, the nobility, the gentry, the learned professions; their condition in life was ordinary, alike removed from the enervation of wealth and the servility of poverty, and having all the independence which belongs to intelligent and laborious industry;—they were, in the main, a rural and agricultural people, and of the sober, reflective, self-dependent temper which such pursuits cherish; their condition, as among themselves, was *equal*; they stood together in their common manhood, undistinguished, save only by those differences which intellect, and character, and culture, make among men.

In the second place, they had all the instruction and experience in personal rights and their enjoyment, which even at that day distinguished the condition of Englishmen, and, outside of any special pressure of the government in particular matters of state or church policy, were a large and valuable possession to the people of England. They might be oppressed by cruel, unjust or impious *laws*, but had important and, in general, efficient guaranties against oppression in violation of law. A common law, being nothing else than the adaptation of the immutable principles of general justice and common right to the ever-varying circumstances of human affairs, the public administration of justice, a participation as jurors in such administration, security by the *habeas corpus* against illegal restraint, an inviolable threshold, and a representation in the Commons which controlled the supplies,—these were some of the rights of Englishmen in which the Puritan emigrants possessed a share.

But the traits which most command our attention, both from intrinsic dignity and the absorbing influence on their conduct, are the depth of their religious convictions, the purity of their religious sentiments, and the fervor of their Christian faith. If our Puritan forefathers in civil station and worldly estate ranked among the common people of

England, the disdain of courtiers and the scorn of prelates, they seemed to themselves children of a nobler lineage, and consecrated of an elder priesthood than those who despised them. To them religion and *its* laws of worth and dignity were not only realities, but the sole realities; Christianity was not only true, but its spirit and its precepts were the all-sufficient guide and rule of life; God they not only revered, with a distant awe, as the Creator of the world and the Ruler of events, but in the boldness of a filial adoption confided in him as the Father of their spirits, the watchful Protector of their daily walk; wealth in earthly possessions, power in temporal sway, they counted as nothing beside the riches and the glories of the spiritual kingdom; the pride of life, the pleasures of sense, all pomp and magnificence seemed but dust and ashes to the substantial joys and effulgent splendors of the spiritual life. Not less was the indifference to the toils and hardships, the sufferings, privations and afflictions of the present time, begotten by the high hopes and sure rewards of their vivid faith. The enemies that they dreaded were the enemies of their souls, the encounters to them most formidable were with the great adversary, the evils they feared were the frailty and the wickedness of their own natures, the victories they aimed at were over temptation and sin, the conquest they strove for was over their own spirits.

In an age when faith has grown colder, when religion is much less a matter of public and general thought, when outward and ostensible enterprises for the moral and spiritual advancement of man attract and absorb whatever activity is spared from purely worldly pursuits, these elevations of spirit seem, to many, inconsistent with the calm and sober performance of duty which marked the conduct of these men. Some stigmatize them as the vagaries of a vulgar fanaticism, others pardon them as the extravagancies of a generous enthusiasm, but *we* acknowledge them as an essential element in the agencies which were to operate great

social and political revolutions at home, and found and build up a great nation abroad.

Passing from this brief and imperfect examination of the character of these emigrants themselves, mark now the peculiar association in which they were united, and in which they were to leave their native land and ultimately to seek these shores. It was an independent, isolated, Christian Church, part of no establishment, subordinate to no hierarchy, and having no relations outside of itself. I propose no observations, mystical or ecclesiastical, concerning it as a *church*, but simply a consideration of the principles on which its formation as a *social unit* rested, and in reference to its convertibility, when need should be, into an independent community and complete body politic.

And first we notice that this community was organized, as its fundamental discrimination from the system of prelacy, upon the notion that the members were the source and depository of all power, that by their election all offices were to be filled, and that the suffrage was equal and universal.

We next observe that the tie which bound the members together had no reference to selfish interests or the pursuit of gain, but was that of brotherhood, and for the culture of their higher nature and the promotion of their supreme welfare. Mutual support and aid, counsel, sympathy, a bearing of each other's burdens, a participation in each other's joys and sorrows, conflicts and triumphs, were the right and the duty of each in respect to all.

Add to this, that this union was permanent, that it embraced the family as well as the individual; that it presupposed concert and consent as to the objects and ends of life; that it ever confirmed and constantly cherished unity of purpose; that it involved a thorough acquaintance with each by all in the most sincere and intimate sense; and that around all was thrown the solemn sanction of divine authority, and you have a little community with more of the true social

spirit to hold it together, and less chance or scope for the operation of selfish discords to weaken or dissolve it, than ever has been or ever can be, otherwise constituted.

To this Puritan congregation the cruel alternative was soon presented, between expatriation and abandonment of their religious worship; for to this pitch had the civil power pushed its persecutions. They chose to turn their backs upon their homes and their possessions, and, to use their own language, "by joint consent they resolved to go to the low countries, where they heard was freedom of religion to all men." For twelve years, in patient, though ungrateful toil, in occupations unfamiliar and uncongenial, amid a crowded population, speaking a foreign tongue, and with customs strange to their English notions, they led an honest life and maintained their religious worship. They have left a record of the reasons and the influences which induced them to leave Holland and seek the remote, unpeopled wilderness within the nominal sovereignty of England. It is quite apparent from a perusal of their own statements, that on leaving England they had no other view than a peaceable life with the enjoyment of religious liberty, looking no further; that as they advanced in years and their children grew up around them, the probable fortunes of their posterity were forced upon their attention. They foresaw that their individuality and nationality, their language, the very religion which was dearer than life or country to them, would be swallowed up in the general population of Holland. For themselves, they would have cared little whether their short sojourn before they were removed to "heaven, their dearest country," were in one place or another; but for their children and later posterity they desired the birthright of Englishmen, and for the pure and primitive forms of Christianity which they possessed, and at so costly a sacrifice had preserved, they sought a permanent establishment and a wider diffusion.

Under these impulses, led by these motives, to enjoy liberty of conscience and pure scriptural worship, to enlarge his majesty's dominions and advance the kingdom of Christ; or, in other words, to found a new society where the Christian religion and English law should prevail, religious liberty flourish and a pure faith be preserved, our Pilgrim fathers projected and accomplished the perilous passage of the wide ocean, braved the unknown dangers of a wilderness, and on this day, two hundred and thirty-four years ago, landed on the Rock of Plymouth. Thus did they, with a true filial devotion, cling to the skirts of the ungracious mother from whose bosom they had been so rudely repelled, and thus did the stone, which the builders of English liberty, and English law, and English power, rejected, become the head of the corner of our constituted state.

Well might Milton, the brightest star in the firmament of English, no less than of Puritan, literature, mourn the great loss to England from this emigration, led by the Pilgrims, and closely followed by so much of the worth and strength of the nation, and sadly forebode for the fortunes of the parent state thus bereaved:

What numbers of faithful and free-born Englishmen and good Christians have been constrained to forsake their dearest home, their friends and kindred, whom nothing but the wide ocean and the savage deserts of America could hide and shelter from the fury of the bishops. Oh, if we could but see the shape of our dear mother England, as poets are wont to give a personal form to what they please, how would she appear, think ye, but in a mourning weed, with ashes upon her head, and tears abundantly flowing from her eyes, to behold so many of her children exposed at once, and thrust from things of dearest necessity, because their conscience could not assent to things which the bishops thought indifferent? Let the astrologers be dismayed at the portentous blaze of comets and impressions in the air, as foretelling troubles and changes to states; I shall believe there cannot be a more illboding sign to a

nation (God turn the omen from us!) than when the inhabitants, to avoid insufferable grievances at home, are enforced by heaps to leave their native country.

It has been the custom of poets, of orators, and of historians, as they looked upon this little fragment of population,—torn from the bosom of a powerful state, driven from the shelter of established law, outcast from the civilization of the world, thrust, as it were, unarmed and naked into a fierce struggle with rigorous, inexorable nature,—to pity its weakness, deplore its trials, and despair of its fate. If the view be confined to the mere outward aspect of the scene and the actors, if you omit their real history and overlook their actual character and connection, if you would regard them as a casual group thrown on the shore from the jaws of shipwreck, or from some dire social convulsion, the picture of feebleness, of misery, of hopelessness, can scarcely be exaggerated.

But, unless my analysis of their character and deduction of their history has wholly failed of its purpose, we cannot resist the conviction that, as the beginning of a new community, as the foundation of an original and separate civil society, as the germ and nucleus of an independent political state, this band of first settlers included as many elements and guaranties of strength, of safety, and of growth, as lay within the whole resources of human nature, or could be added from the supports of a divine religion.

All the traits and qualities of personal manhood, and in as large measure as, before or since, their countrymen or ours have attained to, they possessed; the attendance of their wives and children carried into whatever strange wilderness a present home, and stamped the settlement as permanent, not fugitive; they were equipped with all the weaponry of substantial education, furnished with sufficient stores of ordinary learning, trained in a discipline of practical experience, better than proof armor in the warfare they were to wage.

Nor was the preparation of their spirits for the great undertaking less fit and sufficient. As they did not fear death, no terror could frighten them from their purpose; as they did not love pleasure, no present privations could appal them, no sensual attractions allure them back; as they were but as wayfarers upon the earth, with no abiding-place, pursuing only the path of duty, wherever they pitched their moving tent, each setting sun would find them "a day's march nearer home."

As the love of gain, the wild spirit of adventure, the lust of dominion, had no share in bringing them across the seas, so no disappointments or discontents of a selfish nature could enfeeble, distract, dissolve their union; as the bonds of their confederacy were spiritual and immortal, no natural afflictions or temporal disasters could absolve the reciprocal duty, or break the mutual faith, in which they were knit together as the soul of one man.

Esteeming, as we must, that our Pilgrim ancestors brought to these shores whatever of essential strength there was in the civilization which they left, and whatever of power there is in a living Christian faith,—that their coming was absolutely void of all guileful purpose, and their association vital in every part with true social energy, we may well consider the laments at the feebleness, and distrusts of the issue, of their enterprise, as more fanciful than philosophical.

What, then, though their numbers were few and their persons ordinary; what though the dark frown of winter hung over the scene, and the sad cry of the sorrowing sea-birds, and the perpetual moan of the vexed ocean, breathed around them; what though the deeper shadow of death, the sadder wail of the dying and the bereaved were in their midst; what though want had possession of their camp, and starvation threatened at their outposts? Strong in human patience, fortitude, courage to bear or to remedy whatever it was in human nature to endure, or in human power to cure, and for the



rest, mightier still in the support of their sublime faith, with the prophet's fervor, each one of them could exclaim, "Although the fig-tree shall not blossom, neither shall fruit be in the vines; the labor of the olive shall fail, and the fields shall yield no meat; the flock shall be cut off from the fold, and there shall be no herd in the stalls: yet I will rejoice in the Lord, I will joy in the God of my salvation."

Equally propitious to the beneficent character of the institutions they were to build up was it, that, while they brought with them such amazing elements of vigor and freedom, they left behind them almost all that had deformed and burdened the development of the state, and all the incrustations and corruptions that had overlaid the Church and defiled religion. King, nobles, gentry, all fixed ranks, all prerogatives, all condescensions, all servilities, they were for ever, in a social sense, delivered from; the whole hierarchy, bishops and priests, canons and convocations, courts ecclesiastical and high commissions, rites and ceremonies, were at once thrown off and utterly ignored; all that could assist, confirm, enlarge and liberalize society, they brought with them, unembarrassed with aught that could thwart, trammel or impede its advancement.

That before the emigrants left Holland, they designed to become a body politic, using among themselves civil government, and choosing their own magistrates; that in preparation for their landing they made a formal compact or covenant to that end, and that, without break or interval from that moment, they and their descendants, to this hour, have maintained free government (notwithstanding it was so long colonial and dependent); that from the same stock their numbers were supplied and increased, and that from the same stock and under the same lead and impulses, the Massachusetts colony was founded; that the Connecticut and New Haven colonies sprung from their loins, while that of Rhode Island grew out of their intolerance; and, in fine,

that all New England, as it has been and is, grew up, as naturally as the oak from the acorn, from this seed planted at Plymouth, I need only to suggest.

The institutions founded by the fathers of New England were new in the affairs of men, and greatly in advance of whatever past experience had shown possible in human condition; the civil prudence of their age regarded them but as the experiments of the model and the laboratory, successful only by exclusion of the friction and disturbance of great and various interests, and by shelter from the stormy elements nursed in the bosom of every large society; the cold eye of tyranny yet watches for the hour when the heats of passion shall dissolve, or the frosts of selfishness shall crumble their whole fabric; still, their foundations stand sure, and their dome ascends and widens in ampler and ampler circles.

But the *spirit of liberty* is no new impulse in human conduct, no new agent in the history of states and nations; yet it is generally regarded as the main impulse in the action of our forefathers, which is without a parallel,—as the effective agent in their constructive achievement, which is without a precedent.

The truth is, with our Pilgrim fathers liberty never was valued as an end, though as a means to *duty* it was worthier than all other possessions, and dearer than life itself. Emancipation from existing authority they sought only to subject themselves to a more thorough discipline; loyalty to a ruler they replaced by obedience to law; they threw off the yoke of their king only to pursue the stricter service of their God. They cherished, they cultivated, they sheltered, they defended, they watered with their tears and with their blood, the fair flower of liberty, but only that they might feed upon its sober, sometimes its bitter, fruit, *duty*.

The mere passion for liberty has overthrown many dynasties and torn in pieces many communities; it has an immense energy to upset and destroy; but here its work ends,

unless it be attended by a sound conception and faithful acceptance of the grand constructive ideas of law and duty, to hold up the tottering, or to rebuild the ruined, state. We pronounce, then, that the highest fidelity to law, and the sincerest devotion to duty, were the controlling sentiments of our ancestors in their walk and work.

Nor did our Puritan fathers teach, either by lesson or example, that *all* men are capable of political self-government. Their doctrine and their practice alike reject such folly, and give this as the demonstration and the truth, that men capable of governing themselves as men, are able to maintain a free civil state as citizens. While they knew that a strong people neither need, nor will endure, a strong government, they no less knew that strength must be somewhere, in people or government, to hold any political society together, and their practical politics were directed by this conviction.

Nor was *equality of right* in the citizens relied on as an adequate social principle to preserve the peace, and advance and develop the power of the commonwealth. That, both from their actual temporal condition, and from their religious opinions, equality of right would be, in its just sense, recognized and acted upon, was inevitable. But equality of right, standing alone, is a principle eminently dissocial, and paralyzing to all high and worthy progress of the general welfare. It may answer for a band of robbers to divide their spoils by, or victorious barons to apportion the conquered land. But join with equality of right, as did the first planters of New England, community of interest and reciprocity of duty, as the controlling sentiments, and you infuse a genuine public spirit, and evolve a strenuous social activity, which will never weary and never fail; you produce, indeed, the efficient causes and influences which have animated and directed the immense expansion of American society, the actual development of American character.

It is worth our while to observe, from the very earliest documents of the emigration and settlement, how well the necessity and the grounds of a true public spirit were understood, and how earnestly they were insisted on. In their letter from Leyden to the Virginia Company, Robinson and Brewster thus recite one of the grounds of just expectation for the success of the projected community. "We are knit together as a body in a more strict and sacred bond and covenant of the Lord, of the violation whereof we make great conscience; and by virtue whereof we do hold ourselves *straitly tied to all care of each other's good, and of the whole by every, and so mutual.*" In his parting letter upon the embarkation Robinson enjoins, "a thing there is carefully to be provided for, to wit, that with your common employments you join common affections, truly bent upon the general good; avoiding, as a deadly plague of your both common and special comfort, *all retiredness of mind for proper advantage*, and all singularly affected any manner of way. Let every man repress in himself and the whole body in each person, as so many rebels against the common good, all private respects of men's selves, not sorting with the general conveniency." And thus Cushman exhorts the whole society, just a year after the landing: "Now, brethren, I pray you remember yourselves, and know that you are not in a retired monastical course, but have given your names and promises one to another and covenanted here to cleave together in the service of God and the king. What then must you do? May you live as retired hermits and look after nobody? Nay, you must seek still the wealth of one another, and inquire as David, How liveth such a man—How is he clad—How is he fed? He is my brother, my associate; we ventured our lives together here and had a hard brunt of it; and we are in league together. Is his labor harder than mine? Surely I will ease him. Hath he no bed to lie on? Why, I have two; I'll lend him one. Hath he

no apparel? Why, I have two suits; I will give him one of them. Eats he coarse fare, bread and water, and I have better? Why, surely we will part stakes. He is as good a man as I, and we are bound to each other; so that his wants must be my wants, his sorrows my sorrows, his sickness my sickness, and his welfare my welfare; for I am as he is. And such a sweet sympathy were excellent, comfortable, yea, heavenly, and *is the only maker and conserver of churches and commonwealths*; and where this is wanting ruin comes on quickly." Such was their temper, such their intelligence, such their wisdom. So long as such sentiments pervade a community, it will feel no lack of public spirit, suffer no decay of public virtue.

Add to these principles, what is not so much a separate principle, as a comprehensive truth, lying at the bottom of the whole enterprise, that the State and the Church were made for man, and not man for the government and the priest—that the culture and development of the individual members of society, and not the grandeur or glory of the body politic, were the superior and controlling objects—and that such culture and development should be religious and for the immortal life, and you have all the constituent elements and forces included in the Puritan Commonwealth.

And they were ample and adequate, and thus far have been so proved; for the days of small things and for the most magnificent expansion; for all the shocks and dangers that have beset the feeble plantations, the growing colonies, the heroic confederation, the united people. Nor has as yet appeared any inherent defect, or incongruous working in the system, which demands or threatens change. Radicalism cannot dig below its foundations, for it rests upon the deepest principles of our nature; philanthropy can build out no wider, for it recognizes the brotherhood of all men; enthusiasm can mount no higher, for it rises to the very threshold

of heaven. No further strength or firmer stability can be added to it, for faith among men, "which holds the moral elements of the world together," and faith in God, which binds that world to his throne, give it its cohesion and its poise.

Some question has been made, where the Puritan emigrants learned, and whence they derived, the great thoughts of equality and freedom, so far in advance of the English liberty of that day, or even the present, so much deeper, and purer, and nobler, than any then existing civilization could have supplied. One of your own orators\* has thought to trace the inspiration, through the religious exiles of Queen Mary's reign, who found at Geneva "a state without a king and a church without a bishop," "backwards from Switzerland to its native land of Greece"; as if unwilling that the bright flame of his country's freedom should be elsewhere lighted, than at those same undying Grecian fires which have kindled the splendors of his own eloquence. I, rather, find the source of these divine impulses in the Christian Scriptures, whence so much else of the Puritan character drew its nourishment, and which they consulted ever, as an oracle, with wrestling and with prayer. I seem to see in the mature designs of Him, to whom a thousand years are but as one day, who moves in His own appointed times, and selects and prepares His own instruments, the re-enactment of the first scenes of the Christian dispensation, in the establishment of the Christian faith upon this unpeopled continent—with this new demonstration and this new power of its vital energy, as well for the reconstruction of all human institutions as for the regeneration of the soul—and hail the Pilgrim fathers as the bearers of a new commission, than which there has been none greater since the time of the Apostles.

Time, and your patience, fail me to insist upon the penetrating forecast and wide sagacity, the vast civil prudence

\* Mr. Choate's Oration, 1843.

and exhaustless fidelity with which our forefathers sought, upon these foundations, to rear a fabric of liberty and law, civilization and religion, for a habitation to their posterity to the latest generation. Yet I must observe that *all their care* was applied directly to the people at large, to the preservation and the perpetuation of intelligence, virtue and piety among them; assured that, from this support, good government and free government were of as certain growth in the moral constitution of things, as is the natural harvest from seed well sown in a grateful soil. Accordingly, they founded a system of common education, not expecting to make the whole people learned, but to make them intelligent, and so protect them from that oppression which knowledge can practice upon ignorance; they maintained the public administration of justice, and confined it to the common law system and procedure, not anticipating that each citizen would become as profound, or as erudite in his special science, as my Lord Coke, but intending that common right and practical justice should be subserved, and not defrauded, by all the profundity and erudition in the world; they employed the holy Sabbath, and gave it full measure in the division of the week, in public preaching, exhortation and prayer; not as a ceremonial expiation or a servile propitiation for the sins of the people, but for instruction to their understandings and confirmation of their faith; and above all, the Bible, the Bible in the family, the Bible in the school, the Bible in the church, was kept ever under the eyes and in the ears and in the hearts of the people, in childhood, in manhood, and in age; for Pope, Prelate and Puritan alike agreed that this book contained the oracles of their religion, and our forefathers knew, by impressive experience, that whichever, Pope, Prelate or People had the keeping of these oracles, held the keys of religious, civil and social liberty.

How, from these never-failing springs, for every occasion of the advancing communities, both civic virtue and martial

spirit were supplied; how as early as 1643 the four New England colonies framed articles of confederation which are the type of the general confederation of the Revolution and of the Federal Union; how in the Indian wars and the French campaigns, the warlike vigor of the people was developed and disciplined; how in the heroic toils and sacrifices of the War of Independence, and in the wise counsels and generous conciliations which made us a united people, New England bore an unmeasured, an unstinted share; how on the tide of her swelling population these traits of her founders have been diffused and the seeds of their institutions disseminated, why should I relate? They are the study of yourselves and of your children.

Behold now in these,—in the great fame of the Puritan exiles, in their sublime pilgrimage, in the society they founded, in the States they built up, in the liberty and the law, in the religion and the civilization they established,—behold our *heritage* from them. I have made no mention of the immense territory which our country's bounds include, but I have shown you the price at which it was all purchased, the title by which it is all held; I have not counted the heaped up treasures of your wealth, but I have pointed you to the mine whence it was all digged, to the fires by which it has all been refined; I have not followed the frequent sails of your commerce over the universal sea, but I have shown you, in the little "Mayflower," the forerunner of your innumerable fleet; I have not pictured the great temple, which from generation to generation has been raised, the home of justice, the habitation of freedom, the shrine towards which the hopes of all nations tend, but I have explored its foundations and laid bare its cornerstone. This vast material aggrandizement, this imperial height of position, we may exult in, but they do not distinguish us from earlier, and now ruined states; they form no part of our peculiar inheritance. Green grass has grown beneath the tread of other



nations, and for them the vine has dropped its purple vintage, and the fields turned up their golden harvest; nature has crowned them with every gift of plenty, and labor gained for them overflowing wealth; uncounted population has filled their borders, victorious arms pushed on their limits, and glorious art, and noble literature, and a splendid worship spread over all, their graces and their dignities; but justice among men, the main policy of all civil society, and faith in God, its only guaranty of permanence, were wanting or died out, and they were turned under by the ploughshare of Time to feed a nobler growth.

As we value this heritage which we have thus received, as we are penetrated with wonder and gratitude at the costly sacrifices and heroic labors of our ancestors, by which it has been acquired for us; as in each preceding generation we observe no unworthy defection from the original stock, no waste of the rich possession, but ever its jealous protection, its generous increase, so do we feel an immeasurable obligation to transmit this heritage unimpaired, and yet ampler, to our posterity, to maintain unbroken the worth and honor which hitherto have marked their lineage. This obligation can only be fulfilled by imitating the wisdom of our fathers, by observing the maxims of their policy, studying the true spirit of their institutions, and acting, in our day, and in our circumstances, with the same devotion to principle, the same fidelity to duty. If we neglect this, if we run wild in the enjoyment of the great inheritance, if we grow arrogant in our prosperity, and cruel in our power, if we come to confound freedom *in* religion with freedom *from* religion, and independence *by* law with independence *of* law, if we substitute for a public spirit a respect to private advantage, if we run from all civil duties, and desert all social obligations, if we make our highest conservatism the taking care of ourselves, our shame and our disaster will alike be signal.

Nor, if we will rightly consider the aspect of our times, and justly estimate the great conflicting social forces at work in the nation, shall we lack for noble incentives to follow in the bright pathway of duty in which our fathers led, nor for great objects to aim at and accomplish. While we rejoice that from no peculiar institutions of New England does occasion of discontent or disquietude arise, to vex the public conscience, or disturb the public serenity; that the evils and dangers of ignorance and sloth are imbedded in no masses of her population, local or derivative; that not for her children are borne our heavy burdens of pauperism and crime; let us no less rejoice that, clogged by no impediment and exhausted by no feebleness of her own, *all* the energies of New England may be devoted to succor and sustain at every point of weakness, *all* her power to uphold and confirm every element of strength, in whatever region of our common country, in whatever portion of her various population.

Guided by the same high motives, imbued with the same deep wisdom, warmed with the same faithful spirit as were our ancestors, what social evil is there so great as shall withstand us, what public peril so dark as shall dismay us? Men born in the lifetime of Mary Allerton, the last survivor of the "Mayflower's" company, lived through the Revolution; men born before the Revolution still live. Of the hundred and one persons who landed from the "Mayflower," one half were buried by early spring; yet now the blood of the New England Puritans beats in the hearts of more than seven millions of our countrymen, the slow and narrow influences of personal example and of public speech, by which alone, in the days of the early settlement, were all social impressions made and diffused, are now replaced by a thousand rapid agencies by which public opinion is formed and circulated. Population seems no longer local and stationary, but ever more and more migratory, intermingled

and transfused; and, if the virtue and the power, to which today we pay our homage, survive in the sons of the Pilgrims, doubt not their influences will soon penetrate and pervade the whole general mass of society throughout the nation; fear not but that *equality of right, community of interest, reciprocity of duty* will bind this whole people together in a perfect, a perpetual union.

### III

#### EULOGY ON CHIEF JUSTICE CHASE

DELIVERED BEFORE THE ALUMNI OF DARTMOUTH COLLEGE,  
HANOVER, NEW HAMPSHIRE, JUNE 24, 1874

#### NOTE

The Chase eulogy was delivered at Hanover during the Commencement season of Dartmouth College in 1874. Upon the death of the Chief Justice, the alumni of Dartmouth College determined to make the next Commencement an occasion of tribute to the memory of so illustrious a son of their Alma Mater. In casting about for a person to deliver a commemorative address, their choice promptly and unanimously pointed to Mr. Evarts as best suited for the task. Mr. Evarts's relations with the Chief Justice had been those of very high regard and cordial friendship, and it is interesting to note that at the time when Mr. Chase was appointed to the bench by President Lincoln in 1864 Mr. Evarts was prominently brought forward as a deserving appointee. It always has been understood that Mr. Lincoln had Mr. Evarts in mind as his choice in case of failure to secure Mr. Chase.

The eulogy was received with general commendation at the time and elicited very great praise from so eminent a man of letters and of public affairs as Mr. George William Curtis, then editor of "Harper's Monthly."

#### EULOGY

*Mr. President and Gentlemen, the Alumni of Dartmouth College:—*

When, not many weeks since, the committee of your association did me the honor to invite me to present, in an address to the assembled graduates of the college, a commemoration of the life, the labors, and the fame of the very eminent man and greatly honored scholar of your discipline, lawyer, orator, senator, minister, magistrate, whom living

a whole nation admired and revered, whom dead a whole nation laments, I felt that neither a just sense of public duty nor the obligations of personal affection would permit me to decline the task. Yielding, perhaps too readily, to the persuasions of your committee that somewhat close professional and public association with the Chief Justice in the later years of his life, and the intimate enjoyment of his personal friendship, might excuse my want of that binding tie of fellowship in a commemoration, in which the venerated college does dutiful honor to a son, and the assembled alumni crown with their affection the memory of a brother, I dismissed also, upon the same persuasion, all anxious solitudes, which otherwise would have oppressed me, lest importunate and inextricable preoccupations of time and mind should disable me from presenting as considerable, and as considerate, a survey of the eminent character and celebrated career of Mr. Chase as should comport with them, or satisfy the just exigencies of the occasion.

The commemoration which brings us together has about it nothing funereal, in sentiment or observance, to darken our minds or sadden our hearts to-day. The solemn rites of sepulture, the sobbings of sorrowing affection, the homage of public grief, the concourse of the great officers of state, the assemblage of venerable judges, the processions of the bar, of the clergy, of liberal and learned men, the attendant crowds of citizens of every social rank and station, both in the great city where he died, and at the national capital, have already graced his burial with all imaginable dignity and unmeasured reverence. To prolong or renew this pious office is no part of our duty to-day. Nor is the maturity or nurture which the college gives to those it calls its sons, bestowed as it is upon their mind and character, affected by the death of the body as is the heart of the natural mother; nor are you, his brethren in this foster care of the spirit, bowed with the same sense of bereavement as are natural

kindred. The filial and fraternal relation which he bore to you, the college and the alumni, is hardly broken by his death, nor is he hidden from you by his burial. His completed natural life is but the assurance and perpetuation of the power, the fame, the example, which the discipline and culture here bestowed had for their object, and in which they find their continuing and ever-increasing glory. The energy here engendered has not ceased its beneficent activity, the torch here lighted still diffuses its illumination, and the fires here kindled still radiate their heat.

Not less certain is it that the spirit of this commemoration imposes no task of vindication or defense, and tolerates no tone of adulation or applause. The tenor of this life, the manifestation of this character, was open and public, before the eyes of all men, upon an eminent stage of action, displayed constantly on the high places of the world. No faculty that Mr. Chase possessed, no preparation of mind or of spirit, for great undertakings or for notable achievements, ever failed of exercise or exhibition for want of opportunity, or, being exercised or exhibited, missed commensurate recognition or responsive plaudits from his countrymen. His career shows no step backward, the places he filled were all of the highest, the services he rendered were the most difficult as well as the most eminent. If, as the preacher proclaims, "time and chance happeneth to all," the times in which Mr. Chase lived permitted the widest scope to great abilities and the noblest forms of public service; and the fortunes of his life show the felicity of the occasions which befell him to draw out these abilities, and to receive these services. Not less complete was the round of public honors which crowned his public labors, and we have no occasion, here, to lament any shortcomings of prosperity or favor, or repeat the authentic judgment which the voices of his countrymen have pronounced upon his fame.

The simple office, then, which seems to me marked out for one who assumes this deputed service in the name of the college and for the friends of good learning, is, in so far as the just limits of time and circumstance will permit, to expose the main features of this celebrated life, "to decipher the man and his nature," to connect the true elements of his character and the moulding force of his education with the work he did, with the influence he wielded in life, with the power of the example which lives after him, and always to have in view, as the most fruitful uses of the hour, his relations to the men and events of his times, and, not less, his true place in history among the lawyers, orators, statesmen, magistrates of the land. *Vera non verba* is our maxim to-day; truth, not words, must mark the tribute the college pays to the sober dignity and solid worth of its distinguished son.

Born of a lineage, which on the father's side dates its American descent from the Puritan emigration of 1640, and on the mother's, finds her the first of that stock native to this country, the son of these parents took no contrariety of traits from the union of the blood of the English Puritans and the Scotch Covenanters, but rather harmonious corroboration of the characteristics of both. These, sturdy enough in either, combined in this descendant to produce as independent and resolute a nature for the conflicts and labors of his day, as any experience of trial or triumph, of proscription or persecution suffered or resisted, had required or supplied in the long history of the contests of these two congenial races with priests and potentates, with principalities and powers. Nothing could be less consonant with a just estimate of the strong traits of this lineage, than which neither Hebrew, nor Grecian, nor Roman nurture has wrought for its heroes either a firmer fibre or a nobler virtue, than to ascribe its chief power to enthusiasm or fanaticism. Plain, sober, practical men and women as they were, there was no hard detail of everyday life that they were not equal to,

no patient and cheerless sacrifice they could not endure, no vicissitude of adverse or prosperous fortune which they could not meet with unchecked serenity. If it be enthusiasm that in them the fear of God had cast out the fear of man, or fanaticism that they placed "things that are spiritually discerned" above the vain shows of the world of sense, in so far they were enthusiasts and fanatics. In every stern conflict, in every vast labor, in every intellectual and moral development of which this country has been the scene, without fainting or weariness they have borne their part, and in the conclusive triumph of the principles of the Puritans and their policies over all discordant, all opposing elements, which enter into the wide comprehension of American nationality, theirs be the praise which belongs to such well-doing.

The son of a farmer—a man of substance, and of credit with his neighbors, and not less with the people of his State— young Chase drew from his boyhood the vigor of body and of mind which rural life and labors are well calculated to nourish. Several of his father's brothers were graduates of this college, and reached high positions in Church and State. An unpropitious turn of the commercial affairs of the country nipped, with its frost, the growing prosperity of his father, whose death, soon following, left him, in tender years, and as one of a numerous family, to the sole care of his mother. With most scanty means, her thrift and energy sufficed to save her children from ignorance or declining manners; maintained their self-respect and independence; set them forth in the world well disciplined, stocked with good principles, and inspired with proud and honorable purposes. To the praise of this excellent woman, wherever the name of her great son shall be proclaimed, this, too, shall be told in remembrance of her: that a Christian's faith, and a mother's love, as high and pure as ever ennobled the most famous matrons of history, stamped the character and furnished the education which equipped him for the



labors and the triumphs of his life. One cannot read her letters to her son in college without the deepest emotion. How many such women were there, in the plain ranks of New England life, in her generation! How many are there now! Paying marvelous little heed to the discussion of women's rights, they show a wonderful addiction to the performance of women's duties.

His uncle, Bishop Chase of Ohio, assumed, for a time, the care and expense of his education, and this drew him to the West, where, under this tutelage, he pursued academic studies for two years. At the end of this time he returned to his mother's charge, entered the junior class of Dartmouth College, and graduated in the year 1826, at the age of eighteen. The only significance, in its impression on his future life, of this brief guardianship of the Western Bishop, was as the determining influence which fixed the chief city of the West in his choice as the forum and arena of his professional and public life. After spending four years in Washington, gaining his subsistence by teaching, a law-student with Mr. Wirt—then at the zenith of his faculties and his fame—studying men and manners at the capital, watching the new questions then shaping themselves for political action, observing the celebrated statesmen of the day, conversant with the great Chief Justice Marshall and his learned associates on the bench of the Supreme Court, and with Webster, and Binney, and other famous lawyers at its bar, he was admitted to practice, and, at the age of twenty-two, established himself at Cincinnati, transferring thus, once and forever, his home from the New England of his family, his birth, his education, and his love, to the ruder but equally strenuous and more expansive society of the West.

While yet of tender years, following up the earlier pious instruction of his mother, and his own profound sense of religious obligations under the inculcation of the Bishop, he

accepted the Episcopal Church as the body of Christian believers in whose communion he found the best support for the religious life he proposed to himself. When he left your college he had not wholly relinquished a purpose, once held, of adopting the clerical profession. His adhesion to the Christian faith was simple and constant and sincere, and he accepted it as the master and rule of his life, in devout confidence in the moral government of the world, as a present and real supremacy over the race of man and all human affairs. He was all his life a great student of the Scriptures, and no modern speculations ever shook the solid reasons of his belief. When he entered the City of Washington, fresh from college, "the earnest prayer of his heart was, that God would give him work to do, and success in doing it." When he was laying out the plans of professional life, on his first establishment at Cincinnati, his invocation was, "May God enable me to be content with the consciousness of faithfully discharging all my duties, and deliver me from a too eager thirst for the applause and favor of men." All through the successive and manifold activities of his busy and strenuous life, when, to outward seeming, they were all worldly and personal, the same predominant sense of duty and religious responsibility animated and solemnized the whole.

At this point in his life we may draw the line between the period of education for the work he had before him and that work itself. What Mr. Chase was, at this time, in all the essential traits of his moral and intellectual character—in his views of life, its value, its just objects and aims, its social, moral, and religious responsibilities; in his views of himself, his duties, obligations, prospects, and possibilities; in his determinations and desires—such, it seems to me from the most attentive study of all these points—such, in a very marked degree, he continued to be at every stage of his ascent in life.

What, then, shall we assign as the decisive elements, the controlling constituents, of character—and what the assurance of their persistence and their force—which this youth could bring to the service of the State, or contribute to the advancement of society and the well-being of mankind?

These were simple, but, in combination, powerful, and adequate to fill out worthily the life of large opportunities which, though not yet foreseen to himself, was awaiting him.

The faculty of reason was very broad and strong in him, yet without being vast or surprising. It seized the sensible and practical relations of all subjects submitted to it, and firmly held them in its tenacious grasp; it exposed these relations to the apprehension of those whose opinion or action it behooved him to influence, by methods direct and sincere, discarding mere ingenuity, and disdaining the subtleness of insinuation. His education had all been of a kind to discipline and invigorate his natural powers; not to encumber them with a besetting weight of learning, or to supplant them by artificial training.

His oratory was vigorous, with those “qualities of clearness, force, and earnestness, which produce conviction.” His rhetoric was ample, but not rich; his illustrations apposite, but seldom to the point of wit; his delivery weighty and imposing.

His force of will, whether in respect of peremptoriness or persistency, was prodigious. His courage to brave, and his fortitude to endure, were absolute. His loyalty to every cause in which he enlisted—his fidelity in every warfare in which he took up arms—were proof against peril and disaster.

His estimate of human affairs, and of his own relation to them, was sober and sedate. All their grandeur and splendor, to his apprehension, connected themselves with the immortal life, and with God, as their guide, overseer, and ruler; and the sum of the practical wisdom of all worthy

personal purposes seemed to him to be, to discern the path of duty, and to pursue it.

His views of the commonwealth were essentially Puritan. Equality of right, community of interest, reciprocity of duty, were the adequate, and the only adequate, principles with him to maintain the strength and virtue of society, and preserve the power and permanence of the State. With these principles unimpaired and unimpeded he feared nothing for his countrymen or their government, and he made constant warfare upon every assault or menace that endangered them.

It was with these endowments and with this preparation of spirit, that Mr. Chase confronted the realities of life, and assumed to play a part which, whether humble or high in the scale and plane of circumstance, was sure to be elevated and worthy in itself; for the loftiness of his spirit for the conflict of life was

Such as raised  
To height of noblest temper heroes old  
Arming to battle.

Such a character necessarily confers authority among men, and that Mr. Chase was ready, on all occasions arising, to assert his high principles by comporting action was never left in doubt. Whether by interposing his strong arm to save Mr. Birney from the fury of a mob of Cincinnati gentlemen, incensed at the freedom of his press in its defiance of slavery; or by his bold and constant maintenance in the courts of the cause of fugitive slaves in the face of the resentments of the public opinion of the day; or by his fearless desertion of all reigning politics to lead a feeble band of protestants through the wilderness of anti-slavery wanderings, its pillar of cloud by day, its pillar of fire by night; or as governor of Ohio facing the intimidations of the slave States, backed by Federal power and a storm of popular pas-

sion; or in consolidating the triumphant politics on the urgent issue which was to flame out into rebellion and revolt; or in his serene predominance, during the trial of the President, over the rage of party hate which brought into peril the co-ordination of the great departments of government, and threatened its whole frame—in all these marked instances of public duty, as in the simple routine of his ordinary conduct, Mr. Chase asked but one question to determine his course of action, "Is it right?" If it were, he had strength, and will, and courage to carry him through with it.

In the ten years of professional life which followed his admission to the bar, Mr. Chase established a repute for ability, integrity, elevation of purpose and capacity for labor, which would have surely brought him the highest rewards of forensic prosperity and distinction, and in due course, of eminent judicial station. In this quieter part of his life, as in his public career, it is noticeable that his employments were never commonplace, but savored of a public zest and interest. His compilation of the Ohio Statutes was a *magnum opus*, indeed, for the leisure hours of a young lawyer, and possesses a permanent value, justifying the assurance Chancellor Kent gave him, that this surprising labor would find its "reward in the good he had done, in the talents he had shown, and in the gratitude of his profession."

But this quiet was soon broken, never to be resumed, and though the great office of Chief Justice was in store for him, it was to be reached by the path of statesmanship and not of jurisprudence.

If it had seemed ever to Mr. Chase and his youthful contemporaries, that they had come upon times when, as Sir Thomas Browne thought two hundred years ago, "it is too late to be ambitious," and "the great mutations of the world are acted," the illusion was soon dispelled. It has been sadly said of Greece in the age of Plutarch, that "all her grand but turbulent activities, all her noble agitations spent,

she was only haunted by the spectres of her ancient renown." No doubt, forty years ago, in this country, there was a prevalent feeling that the age of the early settlements and, again, of our War of Independence, had closed the heroic chapters of our history, and left nothing for the public life of our later times, but peaceful and progressive development, and the calm virtues of civil prudence, to work out of our system all incongruities and discords. But what these political speculations assigned as the passionless work of successive generations, was to be done in our time, and, as it were, in one "unruly right."

Mr. Chase had supported General Harrison for the Presidency in 1840, not upon any very thorough identification with Whig politics, but partly from a natural tendency toward the personal fortunes of a candidate from the West, and from his own State, in the absence of any strong attraction of principle to draw him to the candidate or the politics of the Democratic party. But, upon the death of Harrison and the elevation of Tyler to the Presidency, Mr. Chase, promptly discerning the signs of the times, took the initiative toward making the national attitude and tendency on the subject of slavery the touchstone of politics. Politic and prudent by nature, and with no personal disappointments or grievances to bias his course, he doubtless would have preferred to save and use the accumulated and organized force of one or the other of the political parties which divided the country, and press its power into the service of the principles and the political action which he had, undoubtedly, decided the honor and interests of the country demanded. He was among the first of the competent and practical political thinkers of the day, to penetrate the superficial crust which covered the slumbering fires of our politics, and to plan for the guidance of their irrepressible heats so as to save the constituted liberties of the nation, if not from convulsion, at least from conflagration. He found the range of

political thought and action, which either party permitted to itself or to its rival, compressed by two unyielding postulates. The first of these insisted, that the safety of the republic would tolerate no division of parties, in Federal politics, which did not run through the slave States as well as the free. The second was that no party could maintain a footing in the slave States, that did not concede the nationality of the institution of slavery and its right, in equality with all the institutions of freedom, to grow with the growth and strengthen with the strength of the American Union. Nothing can be more interesting to a student of politics than the masterly efforts of patriotism and statesmanship, in which all the great men of the country participated, for many years, to confine the perturbations of our public life to a controversy with this latter and lesser postulate. Seward with the Whig party, Chase with the Democratic party, and a host of others in both, tried hard to conciliate the irreconcilable, and to stultify astuteness, to the acceptance of the proposition that slavery, its growth girdled, would not be already struck with death. Quite early, however, Mr. Chase grappled with the primary postulate, and through great labors, wise counsels, long-suffering patience, and by the successive stages of the Liberty party, Independent Democracy, and Free-Soil party, led up the way to the Republican party, which, made up by the Whig party dropping its slave State constituency, and the Democratic party losing its Free-Soil constituents, rent this primary postulate of our politics in twain, and took possession of the government by the election of its candidate, Mr. Lincoln.

This movement in politics was one of prodigious difficulty and immeasurable responsibility. It was so felt to be by the prime actors in it, though with greatly varying largeness of survey and depth of insight. In the system of American politics it created as vast a disturbance as would a mutation

of the earth's axis, or the displacement of the solar gravitation, in our natural world. This great transaction filled the twenty years of Mr. Chase's mature manhood, say, from the age of thirty to that of fifty years. He must be awarded the full credit of having understood, resolved upon, planned, organized, and executed, this political movement, and whether himself leading or co-operating or following in the array and march of events, his plan, his part, his service, were all for the cause, its prosperity, and its success. To one who considers this career, not as completed and triumphant, not with the glories of power, and dignities, and fame which attended it, not with the blessings of a liberated race, a consolidated Union, an ennobled nationality which receive the plaudits of his countrymen, but as its hazards and renunciations, its toils and its perils, showed at the outset, in contrast with the ease and splendor of his personal fortunes which adhesion to the political power of slavery seemed to insure to him, and then contemplates the promptness of his choice and the steadfastness of his perseverance, the impulse and the action seem to find a parallel in the life of the great Hebrew statesman, who, "*by faith*, when he was come to years, refused to be called the son of Pharoah's daughter," and "*by faith*, forsook Egypt, not fearing the wrath of the king."

The first half of this period of twenty years witnessed only the preliminaries, equally brave and sagacious, of agitation, promulgation of purposes and opinions, consultations, conventions, and political organizations, more and more comprehensive and effective. All this time Mr. Chase was simply a citizen, and apparently could expect no political station or authority till it should come from the prosperous fortunes of the party he was striving to create. Suddenly, by a surprising conjunction of circumstances he was lifted, at one bound, to the highest and widest sphere of influence, upon the opinion of the country, which our political establishment presents—I mean the Senate of the United States.



The elective body, the legislature of Ohio, was filled in almost equal numbers with Whigs and Democrats, but a handful of Liberty party men held the control to prevent or determine a majority. They elected Mr. Chase. The concurrence is similar, in its main features, to the election of Mr. Sumner to the Senate, two years afterward, in Massachusetts. Much criticism of such results is always and necessarily excited. The true interpretation of such transactions is simply a transition state from old to new politics, wherein party names and present interests are unchanged, but opinions and projects and prospects are taking a new shape, and the old mint, all at once, astonishes everybody by striking a new image and superscription, soon to be stamped upon the whole coinage. The part of Mr. Chase in this election, as of Mr. Sumner in his own, was elevated and without guile. His term in the Senate brought him to the year 1856, and was followed by two successive elections and four years' service as governor of Ohio, and a re-election to the Senate. In these high stations he added public authority to his opinions and purposes, and gained for them wider and wider influence, while he discharged all general senatorial duties, and official functions as governor, with benefit to the legislation of the nation and to the administration of the State.

As the Presidential election approached and the Republican party took the field with an assurance of assuming the administration of the Federal government, and of meeting the weighty responsibility of the new political basis, the question of candidates absorbed the attention of the party, and attracted the interest of the whole country. When a new dynasty is to be enthroned, the *personality* of the ruler is an element of the first importance. In the general judgment of the country, and equally to the apprehension of the mass of his own party and of its rival, Mr. Seward stood as the natural candidate, and upon manifold considerations. His unquestioned abilities, his undoubted fidelity, his vast

services and wide following in the party, presented an unprecedented combination of political strength to obtain the nomination and carry the election, and of adequate faculties and authority with the people for the prosperous administration of the Presidential office. Second only to Mr. Seward, in this general judgment of his countrymen, stood Mr. Chase, with just enough of preference for him, in some quarters, over Mr. Seward, upon limited and special considerations, to encourage that darling expedient of our politics a resort to a *third* candidate. This recourse was had, and Mr. Lincoln was nominated and elected.

The disclosure of Mr. Lincoln to the eyes of his countrymen as a possible, probable, actual candidate for the Presidency came upon them with the suddenness and surprise of a revelation. His advent to power as the ruler of a great people, in the supreme juncture of their affairs, to be the head of the state among its tried and trusted statesmen, to subordinate and co-ordinate the pride and ambition of leaders, the passions and interests of the masses, and to guide the destinies of a nation whose institutions were all framed for obedience to law and perpetual domestic peace, through rebellion, revolt, and civil war; and to the subversion of the very order of society of a vast territory and a vast population, finds no parallel in history; and was a puzzle to all the astrologers and soothsayers. It has been said of George III—whose narrow intellect and obstinate temper so greatly helped on the rebellion of our ancestors to our independence—it has been said of George III, that “it was his misfortune that, intended by nature to be a farmer, accident placed him on a throne.” It was the happy fortune of the American people, that to the manifest advantages of freedom from jealousies of any rivals; and from commitment, by any record, to schemes or theories or sects or cabals, pursued by no hatreds, beguiled by no attachments, Mr. Lincoln added a vigorous, penetrating, and capacious intellect, and a noble,

generous nature which filled his conduct of the government, in small things and great, from beginning to end, "with malice to none and charity to all." These qualities were indispensable to the safety of the government and to the prosperous issue of our Civil War. In the great crisis of a nation struggling with rebellion, the presence or absence of these personal traits in a ruler may make the turning-point in the balance of its fate. Had Lincoln, in dealing with the administration of government during the late rebellion, insisted as George III did, in his treatment of the American Revolution, upon "the right of employing as responsible advisers those only whom he personally liked, and who were ready to consult and execute his personal wishes," had he excluded from his counsels great statesmen like Seward and Chase, as King George did Fox and Burke, who can measure the dishonor, disorder, and disaster into which our affairs might have fallen? Such narrow intelligence and perversity are as little consistent with the true working of administration under our Constitution as they were under the British Constitution, and as little consonant with the sound sense as they are with the generous spirit of our people.

By the arrangements of his cabinet, and his principal appointments for critical services, Mr. Lincoln showed at once that nature had fitted him for a ruler, and accident only had hid his earlier life in obscurity. I cannot hesitate to think that the presence of Mr. Seward and Mr. Chase in the great offices of State and Treasury, and their faithful concurrence in the public service and the public repute of the President's conduct of the government, gave to the people all the benefits which might have justly been expected from the election of either to be himself the head of the government and much else besides. I know of no warrant in the qualities of human nature, to have hoped that either of these great political leaders would have made as good a minister under the administration of the other, as President, as both

of them did under the administration of Mr. Lincoln. I see nothing in Mr. Lincoln's great qualities and great authority with this people, which could have commensurately served our need in any place, in the conduct of affairs, except at their head.

The general importance, under a form of government where the confidence of the people is the breath of the life of executive authority, of filling the great offices of state with men who, besides possessing the requisite special faculties for their several departments and large general powers of mind for politics and policies, have also great repute with the party, and great credit with the country, was well understood by the President. He knew that the times needed, in the high places of government, men "who," in Bolingbroke's phrase, "had built about them the opinion of mankind which, fame after death, is superior strength and power in life."

Of the great abilities which Mr. Chase, in his administration of the Treasury, exhibited through the three arduous years of that public service, no question has ever been made. The exactions of the place knew no limits. A people, wholly unaccustomed to the pressure of taxation, and with an absolute horror of a national debt, was to be rapidly subjected to the first without stint, and to be buried under a mountain of the last. Taxes which should support military operations on the largest scale, and yet not break the back of industry which alone could pay them; loans, in every form that financial skill could devise, and to the farthest verge of the public credit; and, finally, the extreme resort of governments under the last stress and necessity, of the subversion of the legal tender, by the substitution of what has been aptly and accurately called the "coined credit" of the government for its coined money—all these exigencies and all these expedients made up the daily problems of the Secretary's life. We may have some conception of the magnitude of these financial operations, by considering one of the sub-

ordinate contrivances required to give to the currency of the country the enormous volume and the ready circulation without which the tides of revenue and expenditure could not have maintained their flow. I refer to the transfer of the paper money of the country from the State to the national banks. This transaction, financially and politically, transcends in magnitude and difficulty, of itself alone, any single measure of administrative government found in our history, yet the conception, the plan, and the execution, under the conduct of Mr. Chase, took less time and raised less disturbance than it is the custom of our politics to accord to a change in our tariff or a modification of a commercial treaty. Another special instance of difficult and complicated administration was that of the renewal of the intercourse of trade, to follow closely the success of our arms, and subdue the interests of the recovered region to the requirements of the government. But I cannot insist on details, where all was vast and surprising and prosperous. I hazard nothing in saying that the management of the finances of the Civil War was the marvel of Europe and the admiration of our own people. For a great part of the wisdom, the courage, and the overwhelming force of will which carried us through the stress of this stormy sea, the country stands under deep obligations to Mr. Chase as its pilot through its fiscal perils and perplexities. Whether the genius of Hamilton, dealing with great difficulties and with small resources, transcended that of Chase, meeting the largest exigencies with great resources, is an unprofitable speculation. They stand together, in the judgment of their countrymen, the great financiers of our history.

A somewhat persistent discrepancy of feeling and opinion between the President and the Secretary, in regard to an important office in the public service, induced Mr. Chase to resign his portfolio, and Mr. Lincoln to acquiesce in his desire. No doubt, it is not wholly fortunate in our govern-

ment that the distribution of patronage, a mixed question of party organization and public service, should so often harass and embarrass administration, even in difficult and dangerous times. Mr. Lincoln's ludicrous simile is an incomparable description of the system as he found it. He said, at the outset of his administration, that "he was like a man letting rooms at one end of his house, while the other end was on fire." Some criticism of the Secretary's resignation and of the occasion of it, at the time, sought to impute to them consequences of personal acerbity between these eminent men, and the mischiefs of competing ambitions and discordant counsels for the public interests. But the appointment of Mr. Chase to the chief justiceship of the United States silenced all this evil speech and evil surmise.

There is no doubt that Mr. Chase greatly desired this office, its dignity and durability both considered, the greatest gratification, to personal desires, and the worthiest in public service, and in public esteem, that our political establishment affords. Fortunate, indeed, is he who, in the estimate of the profession of the law, and in the general judgment of his countrymen, combines the great natural powers, the disciplined faculties, the large learning, the larger wisdom, the firm temper, the amiable serenity, the stainless purity, the sagacious statesmanship, the penetrating insight, which make up the qualities that should preside at this high altar of justice, and dispense to this great people the final decrees of a government "not of men, but of laws." To whatever President it comes, as a function of his supreme authority, to assign this great duty to the worthiest, there is given an opportunity of immeasurable honor for his own name, and of vast benefits to his countrymen, outlasting his own brief authority, and perpetuating its remembrance in the permanent records of justice, "the main interest of all human society," so long as it holds sway among men. John Adams, from the Declaration of Independence down, and with the

singular felicity of his line of personal descendants, has many titles to renown, but by no act of his life has he done more to maintain the constituted liberties which he joined in declaring, or to confirm his own fame, than by giving to the United States the great Chief Justice Marshall, to be to us, forever, through every storm that shall beset our ship of state—

Like a great sea-mark, standing every flaw,  
And saving them that eye it.

In this disposition, Mr. Lincoln appointed Mr. Chase to the vacant seat, and the general voice recognized the great fitness of the selection.

I may be permitted to borrow from the well-considered and sober words of an eminent judge, the senior Associate on the bench of the Supreme Court—words that will carry weight with the country which mine could not—a judicial estimate of this selection. Mr. Justice Clifford says: “Appointed, as it were, by common consent, he seated himself easily and naturally in the chair of justice, and gracefully answered every demand upon the station, whether it had respect to the dignity of the office, or to the elevation of the individual character of the incumbent, or to his firmness, purity, or vigor of mind. From the first moment he drew the judicial robes around him he viewed all questions submitted to him as a judge in the calm atmosphere of the bench, and with the deliberate consideration of one who feels that he is determining issues for the remote and unknown future of a great people.”

*Magistratus ostendit virum*—the magistracy shows out the man. A great office, by its great requirements and great opportunities, calls out and displays the great powers and rare qualities which, presumably, have raised the man to the place. Let us consider this last public service and last great station, as they exhibit Mr. Chase to a candid estimate.

And, first, I notice the conspicuous fitness for judicial service of the mental and moral constitution of the man. All through the heady contests of the vehement politics of his times, his share in them had embodied decision, moderation, serenity, and inflexible submission to reason as the master and ruler of all controversies. Force, fraud, cunning, and all lubric arts and artifices, even the beguilements of rhetoric, found no favor with him, as modes of warfare or means of victory. So far, then, from needing to lay down any weapons, or disuse any methods in which he was practised, or learn or assume new habits of mind or strange modes of reasoning, Mr. Chase, in the working of his intellect and the frame of his spirit, was always judicial.

It was not less fortunate for the prompt authority of his new station, so dependent upon the opinion of the country, that his credit for great abilities and capacity for large responsibilities was already established. Great repute, as well as essential character, is justly demanded for all elevated public stations, and especially for judicial office, whose prosperous service, in capital junctures, turns mainly on moral power with the community at large.

Both these preparations easily furnished the Chief Justice with the requisite aptitude for the three relations, of prime importance, upon which his adequacy must finally be tested; I mean, his relation to the court as its presiding head, his relation to the profession as masters of the reason and debate over which the court is the arbiter, and his relation to the people and the State in the exercise of the critical constitutional duties of the court, as a co-ordinate department of the government.

In a numerous court, that the Chief Justice should have a prevalent and gracious authority, as first among equals, to adjust, arrange, and facilitate the co-operative working of its members, will not be doubted. For more than sixty years, at least, this court had felt this authority—*potens*



*et lenis dominatio*—in the presence of the two celebrated Chief Justices who filled out this long service. Their great experience and great age had supported, and general conformity of political feeling, if not opinion, on the bench, had assisted, this relation of the Chief Justice to the court.

When Mr. Chase was called to this station, he found the bench filled with men of mark and credit, and his accession made an exactly equal division of the court between the creations of the old and of the new politics. In these circumstances the proper maintenance of the traditional relation of the Chief Justice to the court was of much importance to its unbroken authority with the public. That it was so maintained was apparent to observation, and Mr. Justice Clifford, speaking for the court, has shown it in a most amiable light:

“Throughout his judicial career he always maintained that dignity of carriage and that calm, noble, and unostentatious presence that uniformly characterized his manners and deportment in the social circle; and, in his intercourse with his brethren, his suggestions were always couched in friendly terms, and were never marred by severity or harshness.”

As for the judgment of the bar of the country, while it gave its full assent to the appointment of Mr. Chase, as an elevated and wise selection by the President, upon the general and public grounds which should always control, there was some hesitancy, on the part of the lawyers, as to the completeness of Mr. Chase's professional training, and the special aptitude of his intellect to thread the tangled mazes of affairs which form the body of private litigations. The doubt was neither unkind nor unnatural, and it was readily and gladly resolved under the patient and laborious application, and the accurate and discriminating investigation, with which the Chief Justice handled the diversified subjects, and the manifold complexities, which were brought

into judgment before him. In fact, the original dubitation had over-looked the earlier distinction of Mr. Chase at the bar in some most important forensic efforts, and had erred in comparing, for their estimate, Mr. Chase entering upon judicial employments, with his celebrated predecessors, as they showed themselves at the close, not at the outset, of their long judicial service. I feel no fear of dissent from the profession in saying that those who practised in the Circuit or in the Supreme Court while he presided, as well as the larger and widely-diffused body of lawyers who give competent and responsible study to the reports, recognize the force of his reason, the clearness of his perceptions, the candor of his opinions, and the lucid rhetoric of his judgments, as assuring his rank with the eminent judges of our own and the mother-country.

But, in the most imposing part of the jurisdiction and jurisprudence of the court; in its dominion over all that belongs to the law of nations, whether occupied with the weighty questions of peace and war, and the multitudinous disturbances of public and private law which follow the change from one to the other; or with the complication of foreign intercourse and commerce with all the world, which the genius of our people is constantly expanding; in its control, also, of the lesser public law of our political system, by which we are a nation of republics, where the bounds of State and Federal authority need constant exploration, and require accurate and circumspect adjustment; in its final arbitration on all conflicts and encroachments by which the great co-ordinate departments of the government are to be confined to their appropriate spheres; in that delicate and superb supremacy of judicial reason whereby the Constitution confides to the deliberations of this court the determination, even, of the legality of legislation, and trusts it, nevertheless, to abstain itself from lawmaking—in all these

transcendent functions of the tribunal the preparation and the adequacy of the Chief Justice were unquestioned.

Accordingly, we find in the few years of his service, before his decline in health, in the crowd of causes bred by the Civil War, which pressed the court with novel embarrassments, and loaded it with unprecedented labors, that the Chief Justice gave conspicuous evidence, in repeated instances, of that union of the faculties of a lawyer and a statesman, which alone can satisfy the exactions of this highest jurisdiction, unequaled and unexampled in any judicature in the world. To name these conspicuous causes merely, without unfolding them, would carry no impression; and time fails for any demonstrative criticism upon them.

There are two passages in the judicial service of Mr. Chase which, attracting great attention and exciting some difference of opinion at the time of the transactions, invite a brief consideration at your hands.

The first political impeachment in our constitutional history, involving, as it did, the accusation of the President of the United States, required the Chief Justice to preside at the trial before the Senate, creating thus the tribunal to which the Constitution had assigned this high jurisdiction. Beyond the injunction that the Senate, when sitting for the trial of impeachments, should be "on oath," the Constitution gave no instruction to fix or ascertain the character of the procedure, the nature of the duty assigned to the specially-organized court, or the distribution of authority between the Chief Justice and the Senate. The situation lacked no feature of gravity—no circumstance of solicitude—and the attention of the whole country, and of foreign nations, watched the transaction at every stage of its progress. No circumstances could present a greater disparity of political or popular forces between accuser and accused, and none could be imagined of more thorough commitment of the body of the court—the Senate—both in the interests of its

members, in their political feeling, and their pre-judgments; all tending to make the condemnation of the President, upon all superficial calculations, inevitable. The effort of the Constitution to guard against mere partisan judgment, by requiring a two-thirds vote to convict, was paralyzed by the complexion of the Senate, showing more than four-fifths of that body of the party which had instituted the impeachment and was demanding conviction. To this party, as well, the Chief Justice belonged, as a founder, a leader, a recipient of its honors, and a lover of its prosperity and its fame. The President, raised to the office from that of Vice-President—to which alone he had been elected—by the deplored event of Mr. Lincoln's assassination, was absolutely without a party, in the Senate or in the country; for the party whose suffrages he had received for the Vice-Presidency was the hostile force in his impeachment. And, to bring the matter to the worst, the succession to all the executive power and patronage of the government, in case of conviction, was to fall into the administration of the President of the Senate—the creature, thus, of the very court invested with the duty of trial and the power of conviction.

Against all these immense influences, confirmed and inflamed by a storm of party violence, beating against the Senate-house without abatement through the trial, the President was acquitted. To what wise or fortunate protection of the stability of government does the people of this country owe its escape from this great peril? Solely, I cannot hesitate to think, to the potency—with a justice-loving, law-respecting people—of the few decisive words of the Constitution which, to the common apprehension, had impressed upon the transaction the solemn character of trial and conviction, under the sanction of the oath to bind the conscience, and not of the mere exercise of power, of which its will should be its reason. In short, the Constitution had made the procedure *judicial*, and not *political*. It was

this sacred interposition that stayed this plague of political resentments which, with their less sober and intelligent populations, have thwarted so many struggles for free government and equal institutions.

Over this scene, through all its long agitations, the Chief Justice presided, with firmness and prudence, with circumspect comprehension, and sagacious forecast of the vast consequences which hung, not upon the result of the trial as affecting any personal fortunes of the President, but upon the maintenance of its character as a trial—upon the prevalence of law, and the supremacy of justice, in its methods of procedure, in the grounds and reasons of its conclusion. That his authority was greatly influential in fixing the true constitutional relations of the Chief Justice to the Senate, and establishing a precedent of procedure not easily to be subverted; that it was felt, throughout the trial, with persuasive force, in the maintenance of the judicial nature of the transaction; and that it never went a step beyond the office which belonged to him—of presiding over the Senate trying an impeachment—is not to be doubted.

The President was acquitted. The disappointment of the political calculations which had been made upon, what was felt by the partisans of impeachment to be, an assured result, was unbounded; and resentments, rash and unreasoning, were visited upon the Chief Justice, who had influenced the Senate to be judicial, and had not himself been political. No doubt, this impeachment trial permanently affected the disposition of the leading managers of the Republican party toward the Chief Justice, and his attitude thereafter toward that party, in his character of a citizen. But the people of the country never assumed any share of the resentment of party feeling. The charge against him, if it had any shape or substance, came only to this: that the Chief Justice brought into the Senate, under his judicial robes, no concealed weapons of party warfare, and that he had not

plucked from the Bible, on which he took and administered the judicial oath, the commandment for its observance.

Not long after Mr. Chase's accession to the bench there came before the court a question, in substance and in form, as grave and difficult as any that its transcendent jurisdiction over the validity of the legislation of Congress, has ever presented, or, in any forecast we can make of the future, will ever present for its judgment; I mean the constitutionality of that feature and quality of the issues of United States notes during the war, which made them a legal tender for the satisfaction of private debts. This measure was one of the great administrative expedients for marshaling the wealth of the country, as rapidly, as equally, and as healthfully, to the energies of production and industry, as might be, and so as seasonably to meet the immeasurable demands of the public service, in the stress of the war. That it was debated and adopted, with full cognizance of its critical character, and with extreme solicitude that all its bearings should be thoroughly explored, and upon the same peremptory considerations, upon which the master of a ship cuts away a mast or jettisons cargo, or the surgeon amputates a limb, was a matter of history. Mr. Chase, as Secretary of the Treasury, with a reluctance and repugnance which enhanced the weight of his counsels, approved the measure, as one of necessity for the fiscal operations of the government, which knew no other seasonable or adequate recourse. Upon this imposing and authoritative advice of the financial minister, the legal-tender trait of the paper issues of the government was adopted by Congress, and without his sanction, presumptively, it would have been denied.

And now, when, after repeated argument at the bar, and long deliberations of the court, the decision was announced, the determining opinion of the Chief Justice, in an equal division of the six associate justices, pronounced the legal-tender acts unconstitutional, as not within the discretion of

the political departments of the government, Congress, and the Executive, to determine this very question of the necessity of the juncture, as justifying their enactment.

The singularity of the situation struck everybody, and greatly divided public sentiment between applause and reproaches of the Chief Justice, as the principal figure both in the administrative measure and in its judicial condemnation. But soon, a new phase of the unsettled agitation on the merits of the constitutional question, drew public attention, and created even greater excitement of feeling and diversity of sentiment. The court, which had been reduced by Congress under particular and temporary motives, hostile to the appointing power of President Johnson, had been again opened by Congress to its permanent number, and its vacancies had been filled. A new case, involving the vexed question, was heard by the court, and the validity of the disputed laws was sustained by its judgment. The signal spectacle of the court, which had judged over Congress and the Secretary, now judging over itself, gave rise to much satire on one side and the other, and to some coarseness of contumely as to the motives and the means of these eventful mutations in matters, where stability and uniformity are, confessedly, of the highest value to the public interests, and to the dignity of government.

Confessing to a firm approval of the final disposition of the constitutional question by the court, I concede it to be a subject of thorough regret that the just result was not reached by less uncertain steps. But, with this my adverse attitude to the Chief Justice's judicial position on the question, I find no difficulty in discarding all suggestions which would mix up political calculations with his judicial action. The error of the Chief Justice, if, under the last judgment of the court, we may venture so to consider it, was in following his strong sense of the supreme importance of restoring the integrity of the currency, and his impatience and despair at

the feebleness of the political departments of the government in that direction, to the point of concluding that the final wisdom of this great question—*inter apices juris*, as well as of the highest reasons of state—was to deny to the brief exigency of war, what was so dangerous to the permanent necessities of peace. But a larger reason and a wider prudence, as it would seem, favor the prevailing judgment, which refused to cripple the permanent faculties of government for the unforeseen duties of the future, and drew back the court from the perilous edge of *lawmaking*, which, overpassed, must react to cripple, in turn, the essential judicial power. The past, thus, was not discredited, nor the future disabled.

I have now carried your attention to the round of public service which filled the life of Mr. Chase with activity and usefulness, and yet the survey and the lesson are incomplete without some reference to a station he never attained, to an office he never administered; I mean, to be sure, the Presidency. It is of the nature of this great place of power and trust, and the necessity of the method by which alone it can be reached, to present to the ambition and public spirit of political leaders, and to the honest hopes and enthusiasm of the great body of the people, an equally frequent disappointment. This is not the place to insist upon the reasons of this unquestionable mischief, nor to attempt to point out the escape from them, if indeed the problem be not, in itself, too hard for solution. To Mr. Chase, as to all the great leaders of opinion in the present and perhaps the last generation of our public men, this disappointment came, and in his case, as in theirs, brought with it the defeat of the hopes and desires of a large following of his countrymen, who sought, through his accession to the Presidency, the elevation of the government, and the welfare of the people.

That the range and dignity of Mr. Chase's public employments and the large capacity, absolute probity, and un-



bounded energy which he had shown in them, justified his aspiration to the Presidency, and the public calculations of great benefit from his accession to it, may not be doubted. In this state of things it is obvious, that he would necessarily be greatly in the minds of men, as a candidate for the candidacy, and this, too, whether they favored or opposed it, without any implication of undue activity of desire, much less of effort, on his part, to obtain the nomination. But, it was not in the fortunes of Mr. Chase's life to take the flood of any tide, in the restless sea of our politics, which led on to the Presidency. In 1860 there was no principle and no policy of the Republican party which could tolerate the postponement of Mr. Seward to Mr. Chase, if a political leader was to be put in nomination. In 1864 the paramount considerations of absolute supremacy, which dictated the re-election of Mr. Lincoln, would endure no competition of candidates in the Republican party. In 1868, when each party seemed, in an unusual degree, free to seek and find its candidates where it would, Mr. Chase was Chief Justice, and no issue of the public safety existed, which alone, in the settled convictions of this people, would favor a political canvass by the head of the judiciary.

In a just view of the office of President, as framed in the Constitution, which he only, in the whole establishment of the government, is sworn "to preserve, protect, and defend," and of the rightful demands of this people from its supreme magistracy, I am sure most people will agree that Mr. Chase possessed great qualities for the discharge of its high duties, and for the maintenance of good government in difficult times. These qualifications I have already unfolded from his life. If, indeed, the great hold over the government, which the Constitution secures to the people by the election of the President, and his direct and constant responsibility to popular opinion, and the full powers, thus safely confided to him, in the name and as the trust of the people at large—

if this hold is to be exercised and preserved in its appropriate vigor, it can only be by the election to the Presidency of true leaders of the political opinion of the country. In this way alone can power and responsibility be kept in union; and any nation which, in the working of its government, sees them divorced—sees power without responsibility, and responsibility without power—must expect dishonor and disaster in its affairs.

I have, thus, with such success as may be, undertaken to separate the thread of this individual character and action from that woven tapestry of human life, whose conciliated colors and collective force make up one of the noblest chapters of history. I have attempted to present in prominent points, passing *per fastigia rerum*, the worth, the work, the duty, and the honor which fill out “the sustained dignity of this stately life.” From his boyhood on the banks of this fair river—famous as having given birth and nurture to three Chief Justices of the United States, Ellsworth, Chase, and Waite; through his first lessons in the humanities in beautiful Windsor, his fuller instruction in the lap of this gracious mother, his loved and venerated Dartmouth; through his lessons in law and in eloquence at the feet of his great master, Wirt, his study of statesmen and government at the capital; through his faithful service to the law, that jealous mistress, and his generous advocacy of the rights, and resentment of the wrongs, of the unfriended and the undefended; through his season of stormy politics with its “estuations of joys and fears”; through the crush and crowd of labors and solitudes which beset him as minister of finance in the tensions and perils of war; through all this steep ascent to the serene height of supreme jurisprudence, this life, but a span in years, was enough for the permanent service of his country, and for the assurance of his fame. *Etenim, Quirites, exiguum nobis vitæ curriculum natura circumscripit, immensum gloriæ.*”

If I should attempt to compare Mr. Chase, either in resemblance or contrast, with the great names in our public life, of our own times, and in our previous history, I should be inclined to class him, in the solidity of his faculties, the firmness of his will, and in the moderation of his temper, and in the quality of his public services, with that remarkable school of statesmen, who, through the Revolutionary War, wrought out the independence of their country, which they had declared, and framed the Constitution, by which the new liberties were consolidated and their perpetuity insured. Should I point more distinctly at individual characters, whose traits he most recalls, Ellsworth as a lawyer and judge, and Madison as a statesman, would seem not only the most like, but very like, Mr. Chase. In the groups of his contemporaries in public affairs, Mr. Chase is always named with the most eminent. In every triumvirate of conspicuous activity he would be naturally associated. Thus, in the preliminary agitations which prepared the triumphant politics, it is Chase and Sumner and Hale; in the competition for the Presidency when the party expected to carry it, it is Seward and Lincoln and Chase; in administration, it is Stanton and Seward and Chase; in the Senate, it is Chase and Seward and Sumner. All these are newly dead, and we accord them a common homage of admiration and of gratitude, not yet to be adjusted or weighed out to each.

Just a quarter of a century before Mr. Chase left these halls of learning, the college sent out another scholar of her discipline, with the same general traits of birth, and condition, and attendant influences, which we have noted as the basis of the power and influences of this later son of Dartmouth. He played a famous part in his time as lawyer, senator, and minister of state, in all the greatest affairs, and in all the highest spheres of public action; and to his eloquence his countrymen paid the singular homage, with which the Greeks crowned that of Pericles, who alone was

called Olympian for his grandeur and his power. He died with the turning tide from the old statesmanship to the new, then opening, now closed, in which Mr. Chase and his contemporaries have done their work and made their fame. Twenty-one years ago this venerable college, careful of the memory of one who had so greatly served as well as honored her, heard from the lips of Choate the praise of Webster. What lover of the college, what admirer of genius and eloquence, can forget the pathetic and splendid tribute which the consummate orator paid to the mighty fame of the great statesman? What mattered it to him, or to the college, that, for the moment, this fame was checked and clouded, in the divided judgments of his countrymen, by the rising storms of the approaching struggle? But, instructed by the experience of the vanquished rebellion, none are now so dull as not to see that the consolidation of the Union, the demonstration of the true doctrine of the Constitution, the solicitous observance of every obligation of the compact, were the great preparations for the final issue of American politics between freedom and slavery.

To these preparations the life-work of Webster and his associates was devoted; their completeness and adequacy have been demonstrated; the force and magnitude of the explosion have justified all their solitudes lest it should burst the cohesions of our unity. The general sense of our countrymen now understands that the statesmen who did the most to secure the common government for slavery and freedom under the frame of the Constitution, and who in the next generations did the most to strengthen the bonds of the Union, and to avert the last test till that strength was assured; and, in our own latest times, did the most to make the contest at last become seasonable and safe, thorough and unyielding and unconditional, have all wrought out the great problem of our statesmanship, which was to assure to us "Liberty and Union, now and forever, one and inseparable."

arable." They all deserve, as they shall all receive, each for his share, the gratitude of their countrymen, and the applause of the world.

To the advancing generations of youth that Dartmouth shall continue to train for the service of the republic, and the good of mankind, the lesson of the life we commemorate, to-day, is neither obscure nor uncertain. The toils and honors of the past generations have not exhausted the occasions nor the duties of our public life, and the preparation for them, whatever else it may include, can never omit the essential qualities which have always marked every prosperous and elevated career. These are energy, labor, truth, courage, and faith. These make up that ultimate *wisdom* to which the moral constitution of the world assures a triumph. —"Wisdom is the principal thing; she shall bring thee to honor; she shall give to thy head an ornament of grace; a crown of glory shall she deliver to thee."

## IV

### WHAT THE AGE OWES TO AMERICA CENTENNIAL ORATION DELIVERED IN FRONT OF INDEPENDENCE HALL, PHILADELPHIA, JULY 4, 1876

#### NOTE

The invitation to deliver the Centennial Oration was conveyed to Mr. Evarts in the following letter:—

INTERNATIONAL EXHIBITION  
UNITED STATES CENTENNIAL COMMISSION

PHILADELPHIA, November 22, 1875.

*To the Honorable*

*William M. Evarts*

*New York City.*

SIR:—In obedience to the unanimous vote of the Executive Committee of the United States Centennial Commission, I have the honor to invite you to deliver an oration at the national celebration of the centennial anniversary of the Declaration of Independence, in this city, July 4, 1876.

The exercises, conducted under the general direction of the Centennial Commission, and following the general custom of the Country, will consist of a prayer, an oration, a poem, the reading of the Declaration, vocal and instrumental music, salutes of artillery, bell-ringing, and a civic and military parade.

It affords us great pleasure to pay you this tribute of respect, and we hope to receive your acceptance at an early day.

I have the honor to be,

Very respectfully,

Your obedient servant,

JOSEPH R. HAWLEY,

*President of U. S. Centennial Com.*

To this Mr. Evarts sent the following reply:—

NEW YORK, December 1, 1875.

*To the Hon'ble,*

*Joseph R. Hawley,*

*President of the U. S. Centennial Commission.*

MY DEAR SIR:—I have had the honor to receive your invitation, in the name and by the authority of the Executive Committee of the United States Centennial Commission, to deliver an oration at the national celebration of the centennial anniversary of the Declaration of Independence in Philadelphia on the 4th of July, 1876.

I am profoundly sensible of the great distinction which the Committee has conferred upon me by this invitation, and even more impressed with the responsible and difficult task which your favor has assigned me.

Certainly, no one should decline to take any part in the duties of this patriotic celebration of which the Commission should think him capable, but, in accepting the service to which you have called me, I cannot but feel that my only assurance of at all worthily meeting the requirements of so great an occasion must rest upon the fact that the concurring judgment of so distinguished and numerous a committee has thought it not unsuitable to invite me to undertake this honorable duty.

With my sincere acknowledgments for the kind consideration shown me by the committee and yourself in the terms of your letter,

I am, with great respect,

Your obedient servant,

WM. M. EVARTS.

The action of the committee was indeed appropriate in asking this eminent grandson of Roger Sherman, who had served with Jefferson, Franklin, Adams and Livingston on the committee of five to draft the Declaration of Independence, to perform so conspicuous and so responsible a part in the national celebration of the centennial anniversary of that great transaction. But the greatness of the honor conferred and the gravity of the duty to be

performed weighed upon his imagination with almost oppressive force in his solicitude for the successful outcome. This anxiety is indicated not alone in his letter of acceptance but is reflected in a remark he made to his partner, Mr. Choate, as the day approached for the delivery of the oration. Mr. Choate has more than once said in conversation with the writer, "I never understood why your father was so nervous about his centennial oration. I remember well how he said to me in all seriousness 'You must come down to Philadelphia and sit near me on the platform, and if I should break down in the delivery, you can finish from the manuscript.'"

Fortunately, no such imagined disaster happened, to necessitate the transfer of the task to the keeping of even so gifted and eminent an orator as Mr. Choate.

These solitudes, real and unfeigned as they were, could not repress in Mr. Evarts his spontaneous humor. In answer to an inquirer as to how long his centennial oration was to be, he replied, "I spoke for four days in the Johnson Impeachment trial, two days before the Geneva Tribunal and for eight days in the Beecher trial; no limit of time has been set for my centennial oration, but there is an implied understanding that I shall get through before the next centennial."

### ORATION

The event which to-day we commemorate supplies its own reflections and enthusiasms, and brings its own plaudits. They do not at all hang on the voice of the speaker nor do they greatly depend upon the contacts, and associations of the place. The Declaration of American Independence was, when it occurred, a capital transaction in human affairs; as such it has kept its place in history; as such it will maintain itself while human interest in human institutions shall endure. The scene and the actors, for their profound impression upon the world, at the time and ever since, have owed nothing to dramatic effects, nothing to epical exaggerations. To the eye there was nothing wonderful, or vast, or splendid, or pathetic in the movement or the dis-



play. Imagination or art can give no sensible grace or decoration to the persons, the place, or the performance, which made up the business of that day. The worth and force that belong to the agents and the action rest wholly on the wisdom, the courage, and the faith that formed and executed the great design, and the potency and permanence of its operation upon the affairs of the world which, as foreseen and legitimate consequences, followed. The dignity of the act is the deliberate, circumspect, open and serene performance by the men in the clear light of day, and by a concurrent purpose, of a civic duty which embraced the greatest hazards to themselves and to all the people from whom they held this deputed discretion, but which to their sober judgments, promised benefits to that people and their posterity, from generation to generation, exceeding these hazards and commensurate with its own fitness. The question of their conduct is to be measured by the actual weight and pressure of the manifold considerations which surrounded the subject before them, and by the abundant evidence that they comprehended their vastness and variety. By a voluntary and responsible choice they willed to do what was done, and what without their will could not have been done. Thus estimated, the illustrious act covers all who participated in it with its own renown, and makes them forever conspicuous among men, as it is forever famous among events. And thus the signers of the Declaration of our Independence "wrote their names where all nations should behold them, and all time should not efface them." It was, "in the course of human events," intrusted to them to determine whether the fulness of time had come when a nation should be born in a day. They declared the independence of a new nation in the sense in which men declare emancipation or declare war; the declaration created what was declared. Famous, always, among men are the founders of States, and fortunate above all others in such fame are

these, our fathers, whose combined wisdom and courage began the great structure of our national existence, and laid sure the foundations of liberty and justice on which it rests. Fortunate, first, in the clearness of their title and in the world's acceptance of their rightful claim. Fortunate, next, in the enduring magnitude of the State they founded and in the beneficence of its protection of the vast interests of human life and happiness which have here had their home. Fortunate, again, in the admiring imitation of their work which the institutions of the most powerful and most advanced nations more and more exhibit; and last of all, fortunate in the full demonstration of our later time that their work is adequate to withstand the most disastrous storms of human fortunes, and survive unwrecked, unshaken, and unharmed.

This day has now been celebrated by a great people, at each recurrence of its anniversary for a hundred years, with every form of ostentatious joy, with every demonstration of respect and gratitude for the ancestral virtue which gave it its glory, and with the firmest faith that growing time should neither obscure its lustre nor reduce the ardor or discredit the sincerity of its observance. A reverent spirit has explored the lives of the men who took part in the great transaction; has unfolded their characters and exhibited to an admiring posterity the purity of their motives; the sagacity, the bravery, the fortitude, the perseverance which marked their conduct, and which secured the prosperity and permanence of their work. Philosophy has divined the secrets of all this power, and eloquence emblazoned the magnificence of all its results. The heroic war which fought out the acquiescence of the Old World in the independence of the New; the manifold and masterly forms of noble character and of patient serene wisdom which the great influences of the time begat; the large and splendid scale on which these elevated purposes were wrought out, and the majestic pro-

portions to which they have been filled up; the unended line of eventful progress, casting ever backward a flood of light upon the sources of the original energy, and ever forward a promise and a prophecy of unexhausted power—all these have been made familiar to our people by the genius and the devotion of historians and orators. The greatest statesmen of the Old World for this same period of a hundred years have traced the initial steps in these events, looked into the nature of the institutions thus founded, weighed by the Old World wisdom, and measured by recorded experience, the probable fortunes of this new adventure on an unknown sea. This circumspect and searching survey of our wide field of political and social experiment, no doubt, has brought them a diversity of judgment as to the past and of expectation as to the future. But of the magnitude and the novelty and the power of the forces set at work by the event we commemorate, no competent authorities have ever greatly differed. The cotemporary judgment of Burke is scarcely an overstatement of the European opinion of the immense import of American independence. He declared: "A great revolution has happened—a revolution made, not by chopping and changing of power in any of the existing States, but by the appearance of a new State, of a new species, in a new part of the globe. It has made as great a change in all the relations and balances and gravitations of power as the appearance of a new planet would in the system of the solar world."

It is easy to understand that the rupture between the colonies and the mother country might have worked a result of political independence that would have involved no such mighty consequences as are here so strongly announced by the most philosophic statesman of his age. The resistance of the colonies which came to a head in the revolt, was led in the name and for the maintenance of the liberties of Englishmen against Parliamentary usurpation and a sub-

version of the British Constitution. A triumph of those liberties might have ended in an emancipation from the rule of the English Parliament, and a continued submission to the scheme and system of the British monarchy, with an American Parliament adjusted thereto, upon the true principles of the English Constitution. Whether this new political establishment should have maintained loyalty to the British sovereign, or should have been organized under a crown and throne of its own, the transaction would, then, have had no other importance than such as belongs to dismemberment of existing empire, but with preservation of existing institutions. There would have been, to be sure, a "new state," but not "of a new species," and that it was "in a new part of the globe" would have gone far to make the dismemberment but a temporary and circumstantial disturbance in the old order of things. Indeed, the solidity and perpetuity of that order might have been greatly confirmed by this propagation of the model of the European monarchies on the boundless regions of this continent. It is precisely here that the Declaration of Independence has its immense importance, As a civil act, and by the people's decree—and not by the achievement of the army, or through military motives—at the first stage of the conflict it assigned a new nationality, with its own institutions, as the civilly preordained end to be fought for and secured. It did not leave it to be an after-fruit of triumphant war, shaped and measured by military power, and conferred by the army on the people. This assured at the outset the supremacy of civil over military authority, the subordination of the army to the unarmed people. This deliberate choice of the scope and goal of the Revolution made sure of two things, which must have been always greatly in doubt, if military reasons and events had held the mastery over the civil power. The first was, that nothing less than the independence of the nation, and its separation from the system of Europe, would

be attained if our arms were prosperous, and the second, that the new nation should always be the mistress of its own institutions. This might not have been its fate had a triumphant army won the prize of independence, not as a task set for it by the people, and done in its service, but by its own might, and held by its own title, and so to be shaped and dealt with by its own will. There is the best reason to think that the Congress which declared our independence gave its chief solicitude, not to the hazards of military failure, not to the chance of miscarriage in the project of separation from England, but to the grave responsibility of the military success—of which they made no doubt—and as to what should replace, as government to the new nation, the monarchy of England, which they considered as gone to them forever from the date of the Declaration.

Nor did this Congress feel any uncertainty, either in disposition or expectation, that the natural and necessary result would preclude the formation of the new government out of any other materials than such as were to be found in society as established on this side of the Atlantic. These materials they foresaw were capable of, and would tolerate, only such political establishment as would maintain and perpetuate the equality and liberty always enjoyed in the several colonial communities.

But all these limitations upon what was possible still left a large range of anxiety as to what was probable, and might become actual. One thing was too essential to be left uncertain, and the founders of this nation determined that there never should be a moment when the several communities of the different colonies should lose the character of component parts of one nation. By their plantation and growth up to the day of the Declaration of Independence they were subjects of one sovereignty, bound together in one political connection, parts of one country, under one Constitution, with one destiny. Accordingly the Declaration, by its very

terms, made the act of separation a dissolving by "one people" of the "political bands that have connected them with another," and the proclamation of the right and of the fact of independent nationality was, "that these United Colonies are, and of right ought to be, free and independent States."

It was thus that, at one breath, "independence and union" were declared and established. The confirmation of the first by war and of the second by civil wisdom was but the execution of the single design which is the glory of this great instrument of our national existence to have framed and announced. The recognition of our independence, first by France and then by Great Britain, the closer union by the articles of confederation, and the final unity by the Federal Constitution, were all but muniments of title of that "liberty and union, one and inseparable," which were proclaimed at this place, and on this day one hundred years ago, which have been our possession from that moment hitherto, and which we surely avow shall be our possession forever.

Seven years of revolutionary war and twelve years of consummate civil prudence brought us, in turn, to the conclusive peace of 1783 and to the perfected Constitution of 1789. Few chapters of the world's history covering such brief periods are crowded with so many illustrious names or made up of events of so deep and permanent interest to mankind. I cannot stay to recall to your attention these characters, or these incidents, or to renew the gratitude and applause with which we never cease to contemplate them. It is only their relation to the Declaration of Independence itself that I need to insist upon and to the new State which it brought into existence. In this view these progressive processes were but the articulation of the members of the State and the adjustment of its circulation to the new centres of its vital power. These processes were all implied and included in this political creation, and were as necessary and

as certain, if it were not to languish and to die, as in any natural creature.

Within the hundred years whose flight in our national history we mark to-day we have had occasion to corroborate by war both the independence and the unity of the nation. In our war against England for neutrality we asserted and we established the absolute right to be free of European entanglements in time of war as in time of peace, and so completed our independence of Europe. And by the war of the Constitution—a war within the nation—the bonds of our unity were tried and tested, as in a fiery furnace, and proved to be dependent upon no shifting vicissitudes of acquiescence, no partial dissents or discontents, but, so far as is predicable of human fortunes, irrevocable, indestructible, perpetual. *Casibus haec nullis, nullo debilis aeo.*

We may be quite sure that the high resolve to stake the future of a great people upon a system of society and of polity that should dispense with the dogmas, the experience, the traditions, the habits, and the sentiments upon which the firm and durable fabric of the British Constitution had been built up, was not taken without a solicitous and competent survey of the history, the condition, the temper, and the moral and intellectual traits of the people for whom the decisive step was taken.

It may, indeed, be suggested that the main body of the elements, and a large share of the arrangements, of the new government were expected to be upon the model of the British system, and that the substantials of civil and religious liberty and the institutions for their maintenance and defence were already the possession of the people of England and the birthright of the colonists. But this consideration does not much disparage the responsibility assumed in discarding the correlative parts of the British Constitution. I mean the Established Church and Throne; the permanent power of a hereditary peerage; the confinement of popular

representation to the wealthy and educated classes; and the ideas of all participation by the people in their own government coming by gracious concession from the royal prerogative and not by inherent right in themselves. Indeed, the counter consideration, so far as the question was to be solved by experience, would be a ready one. The foundation, and the walls, and the roof of this firm and noble edifice, it would be said, are all fitly framed together in the substantial institutions you propose to omit from your plan and model. The convenience and safety and freedom, the pride and happiness which the inmates of this temple and fortress enjoy, as the rights and liberties of Englishmen, are only kept in place and play because of the firm structure of these ancient strongholds of religion and law, which you now desert and refuse to build anew.

Our fathers had formed their opinions upon wiser and deeper views of man and Providence than these, and they had the courage of their opinions. Tracing the progress of mankind in the ascending path of civilization, enlightenment, and moral and intellectual culture, they found that the Divine ordinance of government in every stage of the ascent, was adjustable on principles of common reason to the actual condition of a people, and always had for its objects, in the benevolent counsels of the Divine wisdom, the happiness, the expansion, the security, the elevation of society, and the redemption of man. They sought in vain for any title of authority of man over man, except of superior capacity and higher morality. They found the origin of castes and ranks, and principalities and powers, temporal or spiritual, in this conception. They recognized the people as the structure, the temple, the fortress, which the great Artificer all the while cared for and built up. As through the long march of time this work advanced, the forms and fashions of government seemed to them to be but the scaffolding and apparatus by which the development of a people's greatness was shaped



and sustained. Satisfied that the people whose institutions were now to be projected had reached all that measure of strength and fitness of preparation for self-government which old institutions could give, they fearlessly seized the happy opportunity to clothe the people with the majestic attributes of their own sovereignty, and consecrate them to the administration of their own priesthood.

The repudiation by England of the spiritual power of Rome at the time of the Reformation was by every estimate a stupendous innovation in the rooted allegiance of the people, a profound disturbance of all adjustments of authority. But Henry VIII, when he displaced the dominion of the Pope, proclaimed himself the head of the Church. The overthrow of the ancient monarchy of France by the fierce triumph of an enraged people was a catastrophe that shook the arrangements of society from centre to circumference. But Napoleon, when he pushed aside the royal line of St. Louis, announced, "I am the people crowned," and set up a plebeian emperor as the impersonation and depositary in him and his line forever of the people's sovereignty. The founders of our Commonwealth conceived that the people of these colonies needed no interception of the supreme control of their own affairs, no conciliations of mere names and images of power from which the pith and vigor of authority had departed. They, therefore, did not hesitate to throw down the partitions of power and right and break up the distributive shares in authority of ranks and orders of men which, indeed, had ruled and advanced the development of society in civil and religious liberty, but might well be neglected when the protected growth was assured, and all the tutelary supervision, for this reason, henceforth could only be obstructive and incongruous.

A glance at the fate of the English essay at a commonwealth, which preceded, and to the French experiment at a republic, which followed our own institution "of a new State

of a new species," will show the marvelous wisdom of our ancestors, which struck the line between too little and too much; which walked by faith indeed for things invisible, but yet by sight for things visible; which dared to appropriate everything to the people which had belonged to Cæsar, but to assume for mortals nothing that belonged to God. No doubt it was a deliberation of prodigious difficulty, and a decision of infinite moment, which should settle the new institutions of England after the execution of the King, and determine whether they should be popular or monarchical. The problem was too vast for Cromwell and the great men who stood about him, and, halting between the only possible opinions, they simply robbed the throne of stability, without giving to the people the choice of their rulers. Had Cromwell assumed the state and style of King, and assigned the constitutional limits of prerogative, the statesmen of England would have anticipated the establishment of 1688, and saved the disgraces of the intervening record. If, on the other hand, the ever-recurring consent of the people in vesting the chief magistracy had been accepted for the Constitution of the State, the revolution would have been intelligible, and might have proved permanent. But what a "Lord Protector" was nobody knew, and what he might grow to be everybody wondered and feared. The aristocracy could endure no dignity above them less than a king's. The people knew the measure and the title of the chartered liberties which had been wrested or yielded from the King's prerogative; but what the division between them and a Lord Protector would be no one could forecast. A brief fluttering between the firmament above and the firm earth beneath, with no poise with either, and the discordant scheme was rolled away as a scroll. A hundred years afterward Montesquieu derided "this impotent effort of the English to establish a democracy," and divined the true cause of its failure. The supreme place, no longer sacred by

the divinity that doth hedge about a king, irritated the ambitions to which it was inaccessible, except by faction and violence. "The Government was incessantly changed, and the astonished people sought for democracy and found it nowhere. After much violence and many shocks and blows, they were fain to fall back upon the same government they had overthrown."

The English experiment to make a commonwealth without sinking its foundations into the firm bed of popular sovereignty, necessarily failed. Its example and its lesson, unquestionably, were of the greatest service in sobering the spirit of English reform in government, to the solid establishment of constitutional monarchy, on the expulsion of the Stuarts, and in giving courage to the statesmen of the American Revolution to push on to the solid establishment of republican government, with the consent of the people as its everyday working force.

But if the English experiment stumbled in its logic by not going far enough, the French philosophers came to greater disaster by overpassing the lines which mark the limits of human authority and human liberty, when they undertook to redress the disordered balance between people and rulers, and renovate the government of France. To the wrath of the people against kings and priests they gave free course, not only to the overthrow of the establishment of the Church and State, but to the destruction of religion and society. They deified man, and thought to raise a tower of man's building, as of old on the plain of Shinar, which should overtop the battlements of heaven, and to frame a constitution of human affairs that should displace the providence of God. A confusion of tongues put an end to this ambition. And now out of all its evils have come the salutary checks and discipline in freedom which have brought passionate and fervid France to the scheme and frame of a sober and firm republic like our own, and, we may hope, as durable.

How much, then, hung upon the decision of the great day we celebrate, and upon the will and the wisdom of the men who fixed the immediate, and if so, the present fortunes of this people. If the body, the spirit, the texture of our political life had not been collectively declared on this day, who can be bold enough to say when and how independence, liberty, union would have been combined, confirmed, assured to this people? Behold, now, the greatness of our debt to this ancestry, and the fountain, as from a rock smitten in the wilderness, from which the stream of this nation's growth and power takes its source. For it is not alone in the memory of their wisdom and virtues that the founders of a State transmit and perpetuate their influences in its lasting fortunes, and shape the character and purposes of its future rulers. "In the birth of societies," says Montesquieu, "it is the chiefs of a State that make its institutions; and afterward it is these institutions that form the chiefs of the State."

And what was this people, and what their traits and training that could justify this congress of their great men in promulgating the profound views of government and human nature which the Declaration embodies and expecting their acceptance as "self-evident"? How had their lives been disciplined and how their spirits prepared that the new-launched ship, freighted with all their fortunes, could be trusted to their guidance with no other chart or compass than these abstract truths? What warrant was there for the confidence that upon these plain precepts of equality of right, community of interest, reciprocity of duty, a polity could be framed which might safely discard Egyptian mystery, and a Hebrew reverence, and Grecian subtlety, and Roman strength—dispense, even, with English traditions of

"Primogenity and due of birth,  
Prerogative of age, crowns, sceptres, laurels."

To these questions the answer was ready and sufficient.

The delegates to this immortal assembly, speaking for the whole country and for the respective colonies, their constituents, might well say:

“What we are, such are this people. We are not here as volunteers, but as their representatives. We have been designated by no previous official station, taken from no one employment or condition of life, chosen from the people at large because they cannot assemble in person, and selected because they know our sentiments, and we theirs, on the momentous question which our deliberations are to decide. They know that the result of all hangs on the intelligence, the courage, the constancy, the spirit of the people themselves. If these have risen to a height, and grown to a strength and unanimity that our judgment measures as adequate to the struggle for independence and the whole sum of their liberties, they will accept that issue and follow that lead. They have taken up arms to maintain their rights, and will not lay them down till those rights are assured. What the nature and sanctions of this security are to be they understand must be determined by united counsels and concerted action. These they have deputed us to settle and proclaim, and this we have done to-day. What we have declared, the people will avow and confirm. Henceforth it is to this people a war for the defence of their united independence against its overthrow by foreign arms. Of that war there can be but one issue. And for the rest, as to the Constitution of the new State, its species is disclosed by its existence. The condition of the people is equal, they have the habits of free men and possess the institutions of liberty. When the political connection with the parent State is dissolved they will be self-governing and self-governed of necessity. As all governments in this world, good and bad, liberal or despotic, are of men, by men, and for men, this new State, having no castes or ranks, or degrees discriminating among men in its population,

becomes at once a government of the people, by the people, and for the people. So it must remain, unless foreign conquest or domestic usurpation shall change it. Whether it shall be a just, wise, or prosperous government, it must be a popular government, and correspond with the wisdom, justice, and fortunes of the people."

And so this people of various roots and kindred of the Old World—settled and transfused in their cisatlantic home into harmonious fellowship in the sentiments, the interests, the habits, the affections which develop and sustain a love of country—were committed to the common fortunes which should attend an absolute trust in the primary relations between man and his fellows and between man and his Maker. This Northern Continent of America had been opened and prepared for the transplantation of the full-grown manhood of the highest civilization of the Old World to a place where it could be free from mixture or collision with competing or hostile elements, and separated from the weakness and the burdens which it would leave behind. The impulses and attractions which moved the emigration and directed it hither, various in form, yet had so much a common character as to merit the description of being public, elevated, moral, or religious. They included the desire of new and better opportunities for institutions consonant with the dignity of human nature and with the immortal and infinite relations of the race. In the language of the times, the search for civil and religious liberty animated the Pilgrims, the Puritans, and the Churchmen; the Presbyterians, the Catholics, and the Quakers; the Huguenots, the Dutch, and the Walloons; the Waldenses, the Germans, and the Swedes, in their several migrations which made up the colonial population. Their experience and fortunes here had done nothing to reduce, everything to confirm, the views and traits which brought them hither. To sever all political

relations, then, with Europe, seemed to these people but the realization of the purposes which had led them across the ocean—but the one thing needful to complete this continent for their home, and to give the absolute assurance of that higher life which they wished to lead. The preparation of the past and the enthusiasms of the future conspired to favor the project of self-government and invest it with a moral grandeur which furnished the best omens and the best guarantees for its prosperity. Instead of a capricious and giddy exaltation of spirit, as a new-gained liberty, a sober and solemn sense of the larger trust and duty took possession of their souls; as if the Great Master had found them faithful over a few things, and had now made them rulers over many.

These feelings, common to the whole population, were not of sudden origin and were not romantic, nor had they any tendency to evaporate in noisy boasts or to run wild in air-drawn projects. The difference between equality and privilege, between civil rights and capricious favors, between freedom of conscience and persecution for conscience' sake, were not matters of moot debate or abstract conviction with our countrymen. The story of these battles of our race was the warm and living memory of our forefathers' share in them, for which, "to avoid insufferable grievances at home, they had been enforced to leave their native countries." They proposed to settle forever the question whether such grievances should possibly befall them or their posterity. They knew no plan so simple, so comprehensive, or so sure to this end as to solve all the minor difficulties in the government of society by a radical basis for its source, a common field for its operation, and an authentic and deliberate method for consulting and enforcing the will of the people as the sole authority of the State.

By this wisdom they at least would shift, within the sphere

of government, the continuous warfare of human nature, on the field of good and evil, right and wrong,

Between whose endless jar justice resides,

from the conflicts of the strength of the many against the craft of the few. They would gain the advantage of supplying as the reason of the State, the reason of the people, and decide by the moral and intellectual influences of instruction and persuasion, the issue of who should make and administer the laws. This involved no pretensions of the perfection of human nature, nor did it assume that at other times, or under other circumstances, they would themselves have been capable of self-government; or, that other people then were, or ever would be, so capable. Their knowledge of mankind showed them that there would be faults and crimes as long as there were men. Their faith taught them that this corruptible would put on incorruption only when this mortal put on immortality. Nevertheless, they believed in man and trusted in God, and on these imperishable supports they thought they might rest civil government for a people who had living conceptions wrought into their own characters and lives.

The past and the present are the only means by which man foresees or shapes the future. Upon the evidence of the past, the contemplation of the present of this people, our statesmen were willing to commence a system which must continually draw, for its sustenance and growth, upon the virtue and vigor of the people. From this virtue and this vigor it can alone be nourished; it must decline in their decline and rot in their decay. They traced this vigor and virtue to inexhaustible springs. And, as the unspent heat of a lava soil, quickened by the returning summers, through the vintages of a thousand years, will still glow in the grape and sparkle in the wine, so will the exuberant forces of a



race supply an unstinted vigor to mark the virtues of immense populations and to the remotest generations.

To the frivolous philosophy of human life which makes all the world a puppet show, and history a book of anecdotes, the moral warfare which fills up the life of man and the record of his race seems as unreal and as aimless as the conflicts of the glittering hosts upon an airy field, whose display lights up the fleeting splendors of a Northern night. But free government for a great people never comes from or gets aid from such philosophers. To a true spiritual discernment there are few things more real, few things more substantial, few things more likely to endure in this world than human thoughts, human passions, human interests, thus molten into the frame and model of our State. *O morem praeclaram, disciplinamque, quam a majoribus accepimus, si quidem teneremus!*

I have made no account, as unsuitable to the occasion, of the distribution of the national power between the General and State governments, or of the special arrangements of executive authority, of legislatures, courts, and magistracies, whether of the General or of the State establishments. Collectively they form the body and the frame of a complete government for a great, opulent, and powerful people, occupying vast regions, and embracing in their possessions a wide range of diversity of climate, of soil, and of all the circumstantial influences of external nature. I have pointed your attention to the principle and the spirit of the government for which all this frame and body exists, to which they are subservient, and to whose mastery they must conform. The life of the natural body is the blood, and the circulation of the moral and intellectual forces and impulses of the body politic shapes and moulds the national life. I have touched, therefore, upon the traits that determined this national life, as to be of, from, and for the people, and not of, from, or for any rank, grade, part, or section of them. In these

traits are found the "ordinances, constitutions, and customs," by a wise choice of which the founders of States may, Lord Bacon says, "sow greatness to their posterity and succession."

And now, after a century of growth, of trial, of experience, of observation, and of demonstration, we are met, on the spot and on the date of the great Declaration, to compare our age with that of our fathers, our structure with their foundation, our intervening history and present condition with their faith and prophecy. That "respect to the opinion of mankind," in attention to which our statesmen framed the Declaration of Independence, we, too, acknowledge as a sentiment most fit to influence us in our commemorative gratulations to-day.

To this opinion of mankind, then, how shall we answer the questioning of this day? How have the vigor and success of the century's warfare comported with the sounding phrase of the great manifesto? Has the new nation been able to hold its territory on the eastern rim of the continent, or has covetous Europe driven in its boundaries, or internal dissensions dismembered its integrity? Have its numbers kept pace with natural increase, or have the mother countries received back to the shelter of firmer institutions the repentant tide of emigration? or have the woes of unstable society distressed and reduced the shrunken population? Has the free suffrage, as a quicksand, loosened the foundations of power and undermined the pillars of the State? Has the free press, with illimitable sweep, blown down the props and buttresses of order and authority in government, driven before its wind the barriers which fence in society, and unroofed the homes which were once castles against the intrusion of a King? Has freedom in religion ended in freedom from religion? and independence by law run into independence of law? Have free schools, by too much learning, made the people mad? Have manners declined, letters

languished, art faded, wealth decayed, public spirit withered? Have other nations shunned the evil example, and held aloof from its infection? Or have reflection and hard fortune dispelled the illusions under which this people "burned incense to vanity, and stumbled in their ways from the ancient path?" Have they, fleeing from the double destruction which attends folly and arrogance, restored the throne, rebuilt the altar, relaid the foundations of society, and again taken shelter in the old protections against the perils, shocks, and changes in human affairs, which

Divert and crack, rend and deracinate  
The unity and married calm of States  
Quite from their fixture?

Who can recount in an hour what has been done in a century, on so wide a field, and in all its multitudinous aspects? Yet I may not avoid insisting upon some decisive lineaments of the material, social, and political development of our country which the record of the hundred years displays, and thus present to "the opinion of mankind," for its generous judgment, our nation as it is to-day—our land, our people, and our laws. And, first we notice the wide territory to which we have steadily pushed on our limits. Lines of climate mark our boundaries north and south, and two oceans east and west. The space between, speaking by and large, covers the whole temperate zone of the continent, and in area measures nearly tenfold the possessions of the thirteen colonies; the natural features, the climate, the productions, the influences of the outward world, are all implied in the immensity of this domain, for they embrace all that the goodness and the power of God have planned for so large a share of the habitable globe. The steps of the successive acquisitions, the impulses which assisted, and the motives which

retarded the expansion of our territory; the play of the competing elements in our civilization and their incessant struggle each to outrun the other; the irrepressible conflict thus nursed in the bosom of the State; the lesson in humility and patience, "in charity for all and malice toward none," which the study of the manifest designs of Providence so plainly teach us—these may well detain us for a moment's illustration.

And this calls attention to that ingredient in the population of this country which came, not from the culminated pride of Europe, but from the abject despondency of Africa. A race discriminated from all the converging streams of immigration which I have named by ineffaceable distinctions of nature; which was brought hither by a forced migration and into slavery, while all others came by choice and for greater liberty; a race unrepresented in the Congress which issued the Declaration of Independence, but now, in the persons of four million of our countrymen raised, by the power of the great truths then declared, as it were from the dead, and rejoicing in one country and the same constituted liberties with ourselves.

In August, 1620, a Dutch slave-ship landed her freight in Virginia, completing her voyage soon after that of the "Mayflower" had commenced. Both ships were on the ocean at the same time; both sought our shores, and planted their seeds of liberty and slavery to grow together on this chosen field until the harvest. Until the separation from England the several colonies attracted each their own emigration, and from the sparseness of the population, both in the Northern and Southern colonies, and the policy of England in introducing African slavery, wherever it might, in all of them, the institution of slavery did not raise a definite and firm line of division between the tides of population which set in upon New England and Virginia from the Old

World, and from them later, as from new points of departure, were diffused over the continent. The material interests of slavery had not become very strong, and in its moral aspects no sharp division of sentiment had yet shown itself. But when unity and independence of government were accepted by the colonies, we shall look in vain for any adequate barrier against the natural attraction of the softer climate and rich productions of the South, which could keep the Northern population in their harder climate and on their less grateful soil, except the repugnancy of the two systems of free and slave labor to commixture. Out of this grew the impatient, and apparently premature, invasion of the Western wilds, pushing constantly onward, in parallel lines, the outposts of the two rival interests. What greater enterprise did for the Northern people in stimulating this movement was more than supplied to the Southern by the pressing necessity for new lands, which the requirements of the system of slave cultivation imposed. Under the operation of these causes the political division of the country built up a wall of partition running east and west, with the novel consequences of the "Border States" of the country being ranged, not on our foreign boundaries, but on this middle line, drawn between the free and slave States. The successive acquisitions of territory, by the Louisiana purchase, by the annexation of Texas, and by the treaty with Mexico, were all in the interest of the Southern policy, and, as such, all suspected or resisted by the rival interest in the North. On the other hand, all schemes or tendencies toward the enlargement of our territory on the North were discouraged and defeated by the South. At length, with the immense influx of foreign immigration, re-enforcing the flow of population, the streams of free labor shot across the continent. The end was reached. The bounds of our habitation were secured. The Pacific possessions became ours, and the

discovered gold rapidly peopled them from the hives of free labor. The rival energies and ambitions which had fed the thirst for territory had served their purpose in completing and assuring the domain of the nation. The partition wall of slavery was thrown down; the line of border States obliterated; those who had battled for territory, as an extension and perpetuation of slavery, and those who fought against its enlargement, as a disparagement and a danger to liberty, were alike confounded.

Those who feared undue and precipitate expansion of our possessions, as loosening the ties of union, and those who desired it, as a step toward dissolution, have suffered a common discomfiture. The immense social and political forces which the existence of slavery in this country, and the invincible repugnance to it of the vital principles of our state, together, generated, have had their play upon the passions and interests of this people; have formed the basis of parties, divided sects, agitated and invigorated the popular mind, inspired the eloquence, inflamed the zeal, informed the understandings, and fired the hearts of three generations. At last the dread debate escaped all bounds of reason, and the nation in arms solved, by the appeal of war, what was too hard for civil wisdom. With our territory unmutilated, our Constitution uncorrupted, a united people, in the last years of the century, crowns with new glory the immortal truths of the Declaration of Independence by the emancipation of a race.

I find, then, in the method and the results of the century's progress of the nation in this amplification of its domain, sure promise of the duration of the body politic, whose growth to these vast proportions has, as yet, but laid out the ground-plan of the structure. For I find the vital forces of free society and the people's government here founded, have by their vigor made this a natural growth. Strength and symmetry have knit together the great frame as its

bulk increased, and the spirit of the nation animates the world:

. . . totamque, infusa per artus,  
Mens agitat molem, et magno se, corpore miscet.

We turn now from the survey of this vast territory, which the closing century has consolidated and confirmed as the ample home for a nation, to exhibit the greatness in numbers, the spirit, the character, the port and mien of the people that dwell in this secure habitation. That in these years our population has steadily advanced, till it counts forty millions instead of three millions, bears witness, not to be disparaged or gainsaid, to the general congruity of our social and civil institutions with the happiness and prosperity of man. But if we consider further the variety and magnitude of foreign elements to which we have been hospitable, and their ready fusion with the earlier stocks, we have new evidence of strength and vivid force in our population, which we may not refuse to admire. The disposition and capacity thus shown give warrant of a powerful society. "All nations," says Lord Bacon, "that are liberal of naturalization are fit for empire." Wealth, in its masses, and still more in its tenure and diffusion, is a measure of the condition of a people which touches both its energy and morality. Wealth has no source but labor. "Life has given nothing valuable to man without great labor." This is as true now as when Horace wrote it. The prodigious growth of wealth in this country is not only, therefore, a signal mark of prosperity, but proves industry, persistency, thrift as the habits of the people. Accumulation of wealth, too, requires and imports security, as well as unfettered activity; and thus it is a fair criterion of sobriety and justice in a people, certainly, when the laws and their execution rest wholly in their hands. A careless observation of the crimes and frauds which attack prosperity, in the actual condition of our society, and the

imperfection of our means for their prevention and redress, leads sometimes to an unfavorable comparison between the present and the past, in this country, as respects the probity of the people. No doubt covetousness has not ceased in the world, and thieves still break through and steal. But the better test upon this point is the vast profusion of our wealth and the infinite trust shown by the manner in which it is invested. It is not too much to say that in our times, and conspicuously in our country, a large share of every man's property is in other men's keeping and management, unwatched and beyond personal control. This confidence of man in man is ever increasing, measured by our practical conduct, and refutes these disparagements of the general morality.

Knowledge, intellectual activity, the mastery of nature, the discipline of life—all that makes up the education of a people—are developed and diffused through the masses of our population, in so ample and generous a distribution as to make this the conspicuous trait in our national character, as the faithful provision and extension of the means and opportunities of education, are the cherished institution of the country. Learning, literature, science, art, are cultivated, in their widest range and highest reach, by a larger and larger number of our people, not, to their praise be it said, as a personal distinction or a selfish possession, but, mainly, as a generous leaven, to quicken and expand the healthful fermentation of the general mind, and lift the level of popular instruction. So far from breeding a dis-tempered spirit in the people, this becomes the main prop of authority, the great instinct of obedience. "It is by education," says Aristotle, "I have learned to do by choice what other men do by constraint of fear." The "breed and disposition" of a people in regard of courage, public spirit, and patriotism, are, however, the test of the working of their institutions which the world most values, and upon which



the public safety most depends. It has been made a reproach of democratic arrangements of society and government that the sentiment of honor, and of pride in public duty, decayed in them. It has been professed that the fluctuating currents and the trivial perturbations of their public life discouraged strenuous endeavor and lasting devotion in the public service. It has been charged that, as a consequence, the distinct service of the State suffered, office and magistracy were belittled, social sympathies cooled, love of country drooped, and selfish affections absorbed the powers of the citizens, and ate into the heart of the commonwealth.

The experience of our country rejects these speculations as misplaced and these fears as illusory. They belong to a condition of society above which we have long since been lifted, and toward which the very scheme of our national life prohibits a decline. They are drawn from the examples of history, which lodged power formally in the people, but left them ignorant and abject, unfurnished with the means of exercising it in their own right and for their own benefit. In a democracy wielded by the arts, and to the ends of a patrician class, the less worthy members of that class, no doubt, thrived by the disdain which noble characters must always feel for methods of deception and insincerity, and crowded them from the authentic service of the State. But, through the period whose years we count to-day, the greatest lesson of all is the preponderance of public over private, of social over selfish, tendencies and purposes in the whole body of the people, and the persistent fidelity to the genius and spirit of popular institutions of the educated classes, the liberal professions, and the great men of the country. These qualities transfuse and blend the hues and virtues of the manifold rays of advanced civilization into a sunlight of public spirit and fervid patriotism, which warms and irradiates the life of the nation. Excess of publicity as

the animating spirit and stimulus of society more probably than its lack will excite our solitudes in the future. Even the public discontents take on this color, and the mind and heart of the whole people ache with anxieties and throb with griefs which have no meaner scope than the honor and the safety of the nation.

Our estimate of the condition of the people at the close of the century—as bearing on the value and efficiency of the principles on which the government was founded, in maintaining and securing the permanent well-being of a nation—would, indeed, be incomplete if we failed to measure the power and purity of the religious elements which pervade and elevate our society. One might as well expect our land to keep its climate, its fertility, its salubrity, and its beauty were the globe loosened from the law which holds it in an orbit where we feel the tempered radiance of the sun, as to count upon the preservation of the delights and glories of liberty for a people cast loose from religion, whereby man is bound in harmony with the moral government of the world.

It is quite certain that the present day shows no such solemn absorption in the exalted themes of contemplative piety as marked the prevalent thought of the people a hundred years ago; nor so hopeful an enthusiasm for the speedy renovation of the world as burst upon us in the marvelous and wide system of vehement religious zeal and practical good works, in the early part of the nineteenth century. But these fires are less splendid only because they are more potent, and diffuse their heat in well-formed habits and manifold agencies of beneficent activity. They traverse and permeate society in every direction. They travel with the outposts of civilization and outrun the caucus, the convention, and the suffrage.

The Church, throughout this land, upheld by no political establishment, rests all the firmer on the rock on which its founder built it. The great mass of our countrymen to-day

find in the Bible—the Bible in their worship, the Bible in their schools, the Bible in their households—the sufficient lessons of the fear of God and the love of man, which make them obedient servants to the free constitution of their country in all civil duties, and ready with their lives to sustain it on the fields of war. And now at the end of a hundred years the Christian faith collects its worshippers throughout our land, as at the beginning. What half a century ago was hopefully prophesied for our far future, goes on to its fulfilment: “As the sun rises on a Sabbath morning and travels westward from Newfoundland to the Oregon, he will behold the countless millions assembling, as if by a common impulse, in the temples with which every valley, mountain, and plain will be adorned. The morning psalm and the evening anthem will commence with the multitudes on the Atlantic coast, be sustained by the loud chorus of ten thousand times ten thousand in the Valley of the Mississippi, and be prolonged by the thousands of thousands on the shores of the Pacific.”

What remains but to search the spirit of the laws of the land as framed by and modelled to the popular government to which our fortunes were committed by the Declaration of Independence? I do not mean to examine the particular legislation, State or general, by which the affairs of the people have been managed, sometimes wisely and well, at other times feebly and ill, nor even the fundamental arrangement of political authority, or the critical treatment of great junctures in our policy and history. The hour and the occasion concur to preclude so intimate an inquiry. The chief concern in this regard, to us and to the rest of the world, is, whether the proud trust, the profound radicalism, the wide benevolence which spoke in the “Declaration,” and were infused into the “Constitution,” at the first, have been in good faith adhered to by the people, and whether now these

principles supply the living forces which sustain and direct government and society.

He who doubts needs but to look around to find all things full of the original spirit, and testifying to its wisdom and strength. We have taken no steps backward, nor have we needed to seek other paths in our progress than those in which our feet were planted at the beginning. Weighty and manifold have been our obligations to the great nations of the earth, to their scholars, their philosophers, their men of genius and of science; to their skill, their taste, their invention; to their wealth, their arts, their industry. But in the institutions and methods of government; in civil prudence, courage, or policy; in statesmanship; in the art of "making of a small town a great city"; in the adjustment of authority to liberty; in the concurrence of reason and strength in peace, of force and obedience in war, we have found nothing to recall us from the course of our fathers, nothing to add to our safety or to aid our progress in it. So far from this, all modifications of European politics accept the popular principles of our system, and tend to our model. The movements towards equality of representation, enlargement of the suffrage, and public education in England; the restoration of unity in Italy; the confederation of Germany under the lead of Prussia; the actual republic in France; the unsteady throne of Spain; the new liberties of Hungary; the constant gain to the people's share in government throughout Europe, all tend one way, the way pointed out in the Declaration of our Independence.

The care and zeal with which our people cherish and invigorate the primary supports and defences of their own sovereignty have all the unswerving force and confidence of instincts. The community and publicity of education, at the charge and as an institution of the State, is firmly imbedded in the wants and desires of the people. Common schools are rapidly extending through the only part of the country

which had been shut against them, and follow close upon the footsteps of its new liberty to enlighten the enfranchised race. Freedom of conscience easily stamps out the first sparkles of persecution, and snaps as green withes the first bonds of spiritual domination. The sacred oracles of their religion the people wisely hold in their own keeping as the keys of religious liberty, and refuse to be beguiled by the voice of the wisest charmer into loosing their grasp.

Freedom from military power and the maintenance of that arm of the government in the people; a trust in their own adequacy as soldiers, when their duty as citizens should need to take on that form of service to the State; these have gained new force by the experience of foreign and civil war, and a standing army is a remoter possibility for this nation, in its present or prospective greatness, than in the days of its small beginnings.

But in the freedom of the press, and the universality of the suffrage, as maintained and exercised to-day throughout the length and breadth of the land, we find the most conspicuous and decisive evidence of the unspent force of the institutions of liberty and the jealous guard of its principal defences. These indeed are the great agencies and engines of the people's sovereignty. They hold the same relations to the vast democracy of modern society that the persuasions of the orators and the personal voices of the assembly did in the narrow confines of the Grecian States. The laws, the customs, the impulses, and sentiments of the people have given wider and wider range and license to the agitations of the press, multiplied and more frequent occasions for the exercise of the suffrage, larger and larger communication of its franchise. The progress of a hundred years finds these prodigious activities in the fullest play—incessant and all-powerful—indispensable in the habits of the people, and impregnable in their affections. Their public service, and

their subordination to the public safety, stand in their play upon one another and in their freedom thus maintained. Neither could long exist in true vigor in our system without the other. Without the watchful, omnipresent, and indomitable energy of the press, the suffrage would languish, would be subjugated by the corporate power of the legions of placemen which the administration of the affairs of a great nation imposes upon it, and fall a prey to that "vast patronage which," we are told, "distracted, corrupted, and finally subverted the Roman Republic." On the other hand, if the impressions of the press upon the opinions and passions of the people found no settled and ready mode of their working out through the frequent and peaceful suffrage, the people would be driven to satisfy their displeasure at government or their love of change to the coarse methods of barricades and batteries.

We cannot, then, hesitate to declare that the original principles of equal society and popular government still inspire the laws, live in the habits of the people, and animate their purposes and their hopes. These principles have not lost their spring or elasticity. They have sufficed for all the methods of government in the past; we feel no fear for their adequacy in the future. Released now from the tasks and burdens of the formative period, these principles and methods can be directed with undivided force to the everyday conduct of government, to the staple and steady virtues of administration. The feebleness of crowding the statute-books with unexecuted laws; the danger of power outgrowing or evading responsibility; the rashness and fickleness of temporary expedients; the constant tendency by which parties decline into factions and end in conspiracies, all these mischiefs beset all governments and are part of the life of each generation. To deal with these evils—the tasks and burdens of the immediate future—the nation needs no other

resources than the principles and the examples which our past history supplies. These principles, these examples of our fathers, are the strength and safety of our State to-day: *Moribus antiquis, stat res Romana, virisque.*

Unity, liberty, power, prosperity—these are our possessions to-day. Our territory is safe against foreign dangers; its completeness dissuades from further ambition to extend it, and its rounded symmetry discourages all attempts to dismember it. No division into greatly unequal parts would be tolerable to either. No imaginable union of interests or passions, large enough to include one-half the country, but must embrace much more. The madness of partition into numerous and feeble fragments could proceed only from the hopeless degradation of the people, and would form but an incident in general ruin.

The spirit of the nation is at the highest—its triumph over the inborn, inbred perils of the Constitution has chased away all fears, justified all hopes, and with universal joy we greet this day. We have not proved unworthy of a great ancestry; we have had the virtue to uphold what they so wisely, so firmly established. With these proud possessions of the past, with powers matured, with principles settled, with habits formed, the nation passes as it were from preparatory growth to responsible development of character and the steady performance of duty. What labors await it, what trials shall attend it, what triumphs for human nature, what glory for itself, are prepared for this people in the coming century, we may not assume to foretell. "One generation passeth away, and another generation cometh, but the earth abideth forever," and we reverently hope that these our constituted liberties shall be maintained to the unending line of our posterity, and so long as the earth itself shall endure.

In the great procession of nations, in the great march of humanity, we hold our place. Peace is our duty, peace is

our policy. In its arts, its labors, and its victories, then, we find the scope for all our energies, rewards for all our ambitions, renown enough for all our love of fame. In the august presence of so many nations, which, by their representatives, have done us the honor to be witnesses of our commemorative joy and gratulation, and in sight of the collective evidences of the greatness of their own civilization with which they grace our celebration, we may well confess how much we fall short, how much we have to make up, in the emulative competitions of the times. Yet, even in this presence, and with a just deference to the age, the power, the greatness of the other nations of the earth, we do not fear to appeal to the opinion of mankind whether, as we point to our land, our people, and our laws, the contemplation should not inspire us with a lover's enthusiasm for our country.

Time makes no pauses in his march. Even while I speak the last hour of the receding is replaced by the first hour of the coming century, and reverence for the past gives way to the joys and hopes, the activities and the responsibilities of the future. A hundred years hence the piety of that generation will recall the ancestral glory which we celebrate to-day, and crown it with the plaudits of a vast population which no man can number. By the mere circumstance of this periodicity our generation will be in the minds, in the hearts, on the lips of our countrymen at the next centennial commemoration, in comparison with their own character and condition and with the great founders of the nation. What shall they say of us? How shall they estimate the part we bear in the unbroken line of the nation's progress? And so on, in the long reach of time, forever and forever, our place in the secular roll of the ages must always bring us into observation and criticism. Under this double trust, then, from the past and for the future, let us take heed to our ways, and, while it is called to-day, resolve that the great



heritage we have received shall be handed down through the long line of the advancing generations, the home of liberty, the abode of justice, the stronghold of faith among men, "which holds the moral elements of the world together," and of faith in God, which binds that world to His throne.

## V

### WASHINGTON AT NEWBURGH

ORATION DELIVERED AT NEWBURGH, NEW YORK, AT THE  
CENTENNIAL CELEBRATION OF "WASHINGTON'S HEAD-  
QUARTERS," OCTOBER 18, 1883

#### NOTE

All the conspicuous military events during the progress of our arms in the war for independence were called to the minds and attention of the people of the country by appropriate celebrations, some upon a large and imposing scale, during the period that marked the centennial of those events. The last of these centennial celebrations was at Newburgh, New York, to commemorate the great historic events that had at that place marked the close of the Revolutionary War,—the proclamation of peace and the disbanding of the army of Washington.

After the battle of Yorktown and the surrender of the British forces under Lord Cornwallis, the Continental army under Washington retired to encampments at Newburgh and its vicinity, where it remained inactive for a period of some eighteen months, until the announcement to the army at Newburgh, on April 19, 1783, of the proclamation of peace between the mother country and the new nation formed by the people of her united American colonies. It was during the period of this encampment that Washington refused the kingly title, and, by his commanding influence suppressed the project of the army, made restive almost to mutiny by the neglect of Congress, to override the civil authority of the new nation and establish a military despotism.

The citizens of Newburgh determined as the centennial year approached to commemorate these closing scenes of the Revolution by a great national celebration to be held at Newburgh, October 18, 1883, one hundred years from the date of the official disbandment of the Continental army by proclamation of Congress. With this view the aid of the legislature of New York was

invoked and steps were taken to procure some action of Congress to give adequate demonstration of the importance of the historic events to be commemorated.

By these united agencies the celebration was planned and by joint resolution of Congress an appropriation was made for the erection under direction of the Secretary of War, of a suitable monument to mark the headquarters occupied by Washington at Newburgh and a joint committee of five senators and eight representatives was appointed to determine the style and character of the monument and to attend and take part in the celebration of the day.

The Committee of Congress, of which the Hon. Lewis Beach, representative from the Congressional district in which Newburgh is situated, was chairman, invited Mr. Evarts to deliver an oration upon this occasion.

#### ORATION

What measure or limit can there or should there be to the joy and pride with which a great, fortunate, prosperous and powerful people looks back upon the men, the action and the events which have determined their destiny and made sure their happiness! In every form and with every degree of interest and zeal such a people does insist, and should insist, that these glories of their inheritance shall never fade from the eyes of themselves or their posterity. They will mark the scenes where momentous transactions have had their birth with durable monuments; they will search out and commemorate every noble purpose and every virtuous act which have made up the collective force and secured the general triumph; they will emblazon with their admiration and their gratitude the names and deeds of the illustrious actors in these great affairs; and finally they will swell the impulse and volume of the impressions of the heroic past, which they preserve and transmit to their descendants, with their own homage and applause. These natural and necessary sentiments and habits of a generous and grateful people

are constant and should be perpetual. Their disuse or decay will not dim the lustre of the historic period but simply mark, alas! the degeneracy of the later times and forbode the failure, or, at least, the eclipse, of the splendid fortunes which have proved too weighty for the shrunken virtues of unworthy heirs.

But though the fires of a people's gratitude and veneration for the founders and preservers of a nation, should never be suffered to go out upon the altar, there needs must occur epochs for the excitement and display of these feelings, which will brighten their flame and fill the whole air with their warmth and light. Such an enlivenment of popular enthusiasm over the principal events and famous characters of our civil and military history was a conspicuous attendant of our great Civil War. It animated the whole public mind with love of the great country, and devotion to the beneficent institutions, which our fathers' wisdom and courage had prepared as a habitation of liberty and justice for their descendants forever. It inspirited the young and the old, the rich and the poor, the men and the women, the scholar and the ploughman, the soldier and the statesman, to vie with the toils and hardships in which the foundations of the great structure were laid by heroic ancestors, and, by equal labors and sacrifices, to preserve, defend and perpetuate, for our remotest posterity, an unmutilated territory and an uncorrupted constitution. The examples, the precepts of the fathers were the model and the guide of their children. They agitated the whole mass of patriotism and power which a free, a brave, an intelligent, a strenuous people placed at the service of a government they adored against a rebellion they abhorred. Let later generations in the assured enjoyment of the great heritage, debate how the sum of their admiration or gratitude shall be distributed between the founders and the preservers of their constituted liberties. For ourselves, we are content to say and to feel that "the

glory of the children is their fathers," and to lay the mighty heroisms of our own day as a gift upon the altar of our country to enrich the name and fame of the founders of the republic.

But a renewal of a people's reverence and affection for the founders of their nation, may justly be connected with the mere revolution of time and the recurrence of dates marking the lapse of an important period in the measure of human affairs. Such a period, in the common judgment of mankind, is noted by the expiration of a hundred years. So durable an impression upon the course of things, itself, gives significance to an event, and when the event is one, in its essential character, of moment and the highest dignity, its centennial inevitably revives its memory and awakens public attention. The first outbreak of armed resistance to British authority in the colonies occurred on the 19th of April, 1775, at Concord in Massachusetts, where was fired "the shot heard round the world." On the 19th of April, 1783, near the spot where we now stand, was read to the armies of the United States, by the order of General Washington their commander-in-chief, a proclamation of Congress directing a cessation of hostilities between Great Britain and the United States. Within this space of precisely eight years, then, are comprehended all the military transactions of the Revolutionary War. The corresponding centennial period has witnessed the celebration of the principal incidents of the glorious and successful conduct of our arms and their final triumph. These celebrations have followed the course of military operations over the whole theatre of the war. Sometimes they have engaged the attention of local pride and interest only, and in other instances they have enlisted the general attention of the people, and the active participation of the government. In all, one spirit and one purpose have shaped the popular demonstrations and inspired the commemorative addresses. This spirit and this purpose

have been, not of rivalry or of discord, but of unison and unbroken sympathy and enthusiasm, in the grand effort and the grand result which made us a free, independent and united people—which established a government adequate for the maintenance of our constituted liberties against domestic danger and foreign menace—and which are justified to the general judgment of mankind, as the greatest transaction of recorded history and the most beneficent fabric of human institution which the world has ever witnessed.

Accordingly the battles of the war, beginning with Concord and Lexington and Bunker Hill, embracing Bennington and Saratoga, and ending with the siege and surrender of Yorktown, have, in turn, been made the occasion of spirited and impressive celebrations. The valor of the soldiers, their unflinching endurance of hunger and cold, and every form and degree of suffering and hardships; their progress in discipline till they could face and overcome the regular troops of the great military power with which we were engaged; the bravery, the skill, the genius of their commanders; the patience and persistence of their campaigns and their strategy; their fortunes and their victories; these all were recalled by the chosen orators, then all received the plaudits of the gathered crowds, all touched their hearts, moved now to the tenderness of tears, and, again, inflamed and aroused as at the sound of a trumpet.

In the midst of these festive pomps and proud gratulations of our people at the triumphant issue of our arms, in the War of the Revolution, the sobriety of their judgment, and their instinctive subordination of military glory to civic greatness, were exhibited in the pre-eminence given to the commemoration of the great central deliberative transaction, in the service of which all the heroism and successes of the war had their motive and their end. I mean, to be sure, the Declaration of Independence, a civic transaction of

which history records no parallel, and which must stand ever to the admiring esteem of statesmen and philosophers, as it does in the unquestioning faith of our whole people, as the consummate work of the most profound wisdom and the most intrepid courage which a political assembly has ever exhibited. Fit indeed was it, that upon the centennial of that transaction the nation to which it gave birth, should invite the other nations of the world, to a generous comparison of the arts, the power, the victories of peace. The concourse of our own population, the attendance of foreign visitors, from all quarters of the globe, witnessed, and formed part of, the grand demonstration of the greatness of the new nation, which had, thus, been born in a day, and of the benign influences upon which it relied to make good its claims upon the attention and respect of the world.

This continuous and manifold presentation, to the homage and applause of our countrymen, of the course of that marvelous succession of events of which the centennial dates had recurred, had left unmarked one stage and act which this vast assemblage has collected to celebrate to-day. In the interval between the surrender of the British army to the combined forces of the United States and of France at Yorktown, and the definitive treaty of peace, by which the results of the war, as establishing our independence, were recognized by Great Britain, our armies were encamped upon these neighboring fields. Upon this very spot Washington had his headquarters. The other great Generals of the patriotic army were disposed all about this, the central position. The disaster to the British arms in Virginia was regarded as the last battle of the war. This victory in the field was counted by us as the complete and final triumph of our cause. France, our generous ally in the darkest days of our conflict, shared in the opinion that the military operations of the war were closed at Yorktown. The suddenness and the completeness of the discomfiture of the British arms,

made the approaches to the settlement of the terms of peace the more uncertain and the more tedious. The British Prime Minister, Lord North, we are told by the messenger who conveyed to him the intelligence of the surrender of Cornwallis, received the news "like a bullet in his heart." The pacification of Europe, through the firmness of the friendship of France, waited upon the completion of our independence, in its treaty recognition by the mother country. But so grave a transaction, besides being repugnant to the pride of England and intolerable to the temper of her king, involved the questions of boundaries to the new sovereignty, of extra-territorial privileges, of participation in common rights which were incapable of partition. Meanwhile, the American armies must await, inactive, the slow result of these complex negotiations. They must be held in readiness for the renewal of hostilities, if the expectations of peace and independence should be disappointed. The exigencies of the public service must control, and for an indefinite period, the conduct of an army, which had no reason for its existence but the country's need of its service in a defensive war, and must maintain the hold for that army's support upon the voluntary aids of the States, when both army and people believed the war was over and its ends secured. This ordeal of the virtue of these citizen soldiers, of the steadfastness and authority of these Republican officers, this trial anew of the great qualities of Washington, this test of the unbalanced scheme of the Revolutionary government, were all passed through in the experience of the eighteen months, that the army was disposed in its cantonments on these surrounding fields, and its commander-in-chief occupied these headquarters at Newburgh.

The occurrences which would mark this peculiar situation of war without hostilities, of peace without security, would, necessarily, be interesting—they proved to be momentous. In moral and political sequence, as well as in time, they



closed the heroic period of our history. Their celebration, here and to-day, completes the pious duty with which this era of power and prosperity gratefully commemorates the days to which it traces their growth. The intrinsic interest of the occurrences which followed one another, during the transition of the people and of the army from war to peace, has attracted great attention to this chapter of our Revolutionary history. It is no wonder, then, that the populous communities that have grown up around and upon the scenes of these transactions, that have been brought up upon the traditions, the associations, the inspirations of the place, should have felt a sensible interest in their commemoration, and in their illustration, by suitable monuments and appropriate ceremonies. The government of the State has created a permanent protective trust to preserve from change, injury or decay the edifice made sacred by its occupation for so long a period by Washington as a home for himself and his wife, and as the hospitable resort of the distinguished Generals that were grouped about him. An equal zeal has provided for the restoration of the famous building, known as the "Temple" within whose walls were so often collected, for religious worship and for public deliberations, the soldiers and the officers of the patriot army, during this their last encampment. So great and general, so serious and momentous interests, however, clustered about these scenes, that neither to local attachment nor to state pride exclusively could the duties and the ceremonies of this celebration be properly committed. The Congress of the United States resolved that a joint select committee of the two houses should be appointed whose duty it should be "to make independently, of itself, or in connection with the trustees of Washington's headquarters and the Citizens' Committee, all necessary arrangements for a befitting celebration of the centennial ceremonies commemorative of Washington's refusal to accept a crown, the proclamation of peace, the dis-

bandment of the army and other notable Revolutionary events, to be held at Washington's Headquarters in the City of Newburgh and State of New York." Under, then, these united auspices of the city, the state and the nation this public celebration is held, and by the favor and invitation of the committee of the two houses of Congress, I enjoy the privilege of taking part in it. The commemoration was further and justly recognized by Congress as of national concern, by a judicious appropriation from the treasury for the erection of a suitable monument upon these grounds, with such inscriptions and emblems as may properly commemorate the historical events which here took place. This action of Congress, taken with great unanimity, shows the public judgment of the importance of these last acts in the Revolutionary period, in themselves, and in their influence upon the complete and fortunate determination of our political institutions and our national life. That this estimate is but a just measure of these occurrences will appear from even a summary examination of their nature, and of the public situation which gave rise to them.

Our affairs had reached that stage when the minds of all men, occupying conspicuous and responsible positions either in civil or military employment, were engaged in solicitous consideration of the great problem of the immediate future of the people and the government. The motives, the objects, the sentiments and the passions that had formed the substantial and the adequate basis for unity of action by the different colonies, that had knit together the friendships and fellowships of their public men, had secured co-operation in matters of civil prudence and of military combination, were about to come to an end. Nay more, they were to be replaced, it was feared, by tendencies and influences in which diversities of interests, personal jealousies and competitions, discordant opinions and active animosities would, on the ordinary calculations of human character and conduct, have

the upper hand. Every reflecting mind was more and more distressed with the conviction that the common oppressions, the common resentments, the common deliberations and the combined action which had kept alive the prodigious energies of the heroic struggle of a feeble people against a common and powerful enemy, would lose their cohesion and their momentum in their complete attainment of the common end, would all be swallowed up in the final victory. Whether or not new experiences, new dangers and new necessities would teach new lessons of wisdom and supply a working force, to mould and weld into unity and strength the scattered forces of these separate communities, when liberated from the inexorable pressure which had held them together, was a speculation which filled with anxiety the public mind. But the hope, the forecast, the faith that would solve all these doubts in the ultimate outcome, did not meet the instant urgency of the question of the immediate means and agencies to be employed, to avoid an evil catastrophe and smooth the progress to the establishment of a competent and united government.

In these anxious speculations, if these distressing uncertainties occupied the thoughts of men in civil authority and formed the staple of popular discussion, we may easily understand how, in this long period of military inaction they pressed with special anxieties upon the minds of the officers and the men of the Revolutionary army. For the statesmen and magistrates, for the leaders of public opinion, as well as for the mass of the people, all over the country, the assured triumph of our arms and the establishment of our independence, carried with them emotions of supreme personal satisfaction and offered prospects of new honors and larger spheres of activity for civil ambition, and new avenues of wealth and prosperity for energy and industry. If to the more circumspect and the more far-seeing the mist of doubt obscured these prospects, and vicissitudes, mischances,

blunders and disasters were counted among the probable experiences which might attend the progress of the colonies in their new political relations to each other, to a full development of unity and strength, these solitudes were public and general not personal or particular. Everybody was willing to accept his share of the common fortunes, and bear his part in the common dangers or disappointments which might prove inseparable from citizenship in the new republic. The glory of success, the pride of independence, the joy of new-born greatness colored everything for the great body of the people with bright anticipations for the future.

To the officers and men of the army as they lay in these encampments, and to their comrades on other fields or scattered on leave and furlough, the near future presented itself in quite a different aspect, and their own share in it gave rise to sharp anxieties and harassing perplexities. Seven long years of military service, of enforced disuse of the peaceful occupations of life, even if age and wounds and hardships had not seriously reduced health of body or vigor of mind, or buoyancy of spirits and of hope, had broken the whole tenor of their lives, and disabled them from competition on equal terms for the moderate successes of the narrow industries of a poor and frugal people. The rank and file would find the places which they would have occupied, had they not obeyed the call of their country to arms, filled by others. The officers must expect that the liberal professions, the public employments, the gainful pursuits of trade would be closed against them, for the indispensable period and stage of preparation and apprenticeship had been lost to them forever, while they were learning and practising the art of war, which victory was to make useless to them for all their lives. The living sense of obligation to them, officers and men, for placing their lives and fortunes at the service, and staking them upon the issues, of the war, which had been none too hearty or profuse while their services were needed

and their courage and constancy were under immediate and admiring observation, they must conclude would not long persist, after their services were ended, and their courage and constancy had borne all their fruits.

If the aspect of the future was thus disconsolate to these veterans, when they looked at the general mass of the people, in which they were soon to be swallowed up, it gained only a deeper color of sadness when they turned their eyes to the Revolutionary government, in whose service so much of their lives had been exhausted, and their unmeasured triumph had been achieved. Even in the urgencies of the war, at the most critical periods, when adequate supplies of money and men meant assurance of success, and their denial certain disaster, the laxity of the ties by which the State governments were held together under the central authority had been painfully evident. Already, the natural and necessary tendency of the final military successes, and the dawn of conclusive and permanent peace, showed itself in progressive inattention of the Congress to the rights and wants of the army, and of the States to the requisitions and authority of the Congress. It looked, indeed, to the soldiers as they lay in their tents, to the officers as they compared opinions in their messes, or gathered about headquarters for news and for encouragement, as if the Revolutionary government would decay, or even dissolve, before their eyes, and the States would neglect, or even repudiate, the obligations to the army which they were so slow to perform to the authentic government which they had reared to raise and support that army, to conduct the war, and, on its successful issue, to conclude the peace.

Nor were these forebodings for the future, these distrusts of the present, vague or speculative. The army, with a patience and good temper, which can escape admiration only when they escape observation, had waited upon Congress, through correspondence and by committees, with calm, con-

vincing, earnest and pointed expositions of their sufferings and their solicitudes. These communications had included a just insistence upon their rights, a self-respecting assertion of their merits, an explicit statement of their expectations and a vivid portrayal of their difficulties, their doubts and their fears. With the utmost candor and good faith the soldiers and officers of the army had impressed upon the collective Congress, upon the governors of the States, upon the great statesmen and patriots in civil life throughout the country, as individuals, that the situation would no longer bear delay, that the temper of the sufferers could no longer brook neglect. As, nevertheless, no efficient public action followed, no genuine or responsible assurance of future action was held out, still more persistent pressure, still more vehement remonstrance ensued. These should have made evident to the Congress and the States, as they evinced on the part of the army, a spreading conviction that the time for argument, for deliberation, for forbearance, was passing away, and that immediate *action*, for the army's necessities, or by the army for its own protection, must end the weary delay.

As the months wore away and the situation, to the apprehension of these sober-minded and patriotic officers and men, showed no amelioration, discouragement gave place to despair. The great commander-in-chief had given to their views and demands his full approval. He had corroborated the statements, and enforced the arguments, the entreaties, the remonstrances, with which they had urged them upon the Congress and the country. He sympathized, to the bottom of his heart, in the worthiness of their claims upon the justice and the gratitude of the government and the people alike, and in the indignation which filled their breasts at the slackness and indifference with which they were treated. This earnest and faithful, this affectionate and intrepid support of their rights and their resentments by the

great commander, could not increase their love, or deepen their reverence, for him, for these were already immeasurable. But when his great authority failed to gain that effectual attention which the urgency of their affairs demanded, they felt that the faults in the frame and scheme of government,—to which alone, and not at all to the personal indifference or incompetency of its members, they attributed this failure of justice and duty to the army,—were neither casual, nor partial, nor temporary. Upon this aspect and estimate they brooded and cast about for some recourse that should meet the necessities of the army, the interests of the people both instant and permanent, and all the exigencies of good government for the nascent nation. For this juncture of the general need, for this failure of existing forces, for this crumbling of confidence, for this confusion of the old and the new, for this dark and clouded transition from the forsaken past to the undiscovered and unformed future, there seemed but one real, one known, one adequate basis upon which faith, justice and safety for all, for army, government and people could be built up. This basis was the name, the fame, the power, the character of Washington. These were the one possession of the new nation about which all minds, all hearts could gather, and add to his incomparable majesty of virtue, of dignity, of personal faculty, of universal service and of unbroken fortune, that homage and applause of all his countrymen which should solve all doubts, dispel all fears, realize all hopes, satisfy all needs, put to flight all theories, all schemes, all discords, all experiments, all fancies, all treasons, and on this new scene, the fullness of time being come, present the crowning glory, before the eyes of all men, of what till now had been but the vision of political enthusiasm “A Patriot King at the head of an United People.”

This, I am quite sure, my countrymen, is the true explanation of the rash and sudden movement of the patriotic army to raise up for a patriotic people a patriotic king. In the

brief record of this transaction, in the character of those engaged in it, in the circumstances surrounding them, in the motives and influences playing upon their minds, in the objects in view, and in the supposed value, in their eyes, of this last resort, I see no trace or suspicion of any vulgar, sordid or selfish preference of the trappings of royalty, or of the drippings of a court, or of grades, or ranks, or titles, or classes among the people, over the simple and equal institutions which were the habit then, as they have since proved the glory and the strength of the nation. No motive but love of country, no object less worthy than the safety of the people, suggested this bright vision of an ideal monarchy, in which everything was romantic, in the sober light of our days, except the greatness and the goodness of Washington.

We must, however, understand that this step on the part of the army, must have been long reflected on, widely considered, and have received a large, if not a general, concurrence of opinion, before the officers could have deputed one of their number to impart this their design to Washington. No one could have conceived that any such design could be tolerated, entertained, much less embraced, by their loved, their revered commander, under any less elevated aspect than that of a mere love of country, a mere compulsion of duty. The depth, the sincerity, the purity of their own sentiments on this profound interest of the new nation, are all guaranteed by the simple fact that they made bold to submit it to the honest-hearted, clear-headed defender and protector of liberty and independence.

I will not debate, his countrymen have had no need to debate, what serious discredit or disaster, what immediate or permanent disorder, might have disturbed the noble progress of our people from war to peace, from the inarticulate frame of the imperfect government to the grand and solid structure of the Constitution and the Union, if the man to whom, and for whom, this project was proposed, had been



less wise, less good, less great than Washington. In this critical posture of public affairs which he painfully felt, before this sudden evidence of the length and breadth and depth to which these dangerous speculations had spread and penetrated in his beloved, his trusted, his faithful, his devoted army, the rapid intelligence and prompt decision of their hero, their commander, their chosen master and king, frightened with his awful frown, and crushed with his fierce indignation, the pernicious scheme, and confounded all its projectors and supporters. His words were few and simple, uttered without parade, and with a sense of shame, that he should need to say in words, what his whole life expressed. "Be assured, Sir, no occurrence in the course of the war has given me more painful sensations, than your information of their being such ideas existing in the army, as you have expressed, and I must view with abhorrence and reprehend with severity." "I am much at a loss to conceive what part of my conduct could have given encouragement to an address, which to me seems big with the greatest mischiefs that can befall my country." "Let me conjure you, then, if you have any regard for your country, concern for yourself or posterity, or respect for me, to banish these thoughts from your mind, and never communicate, as from yourself or any one else, a sentiment of the like nature."

These modest headquarters are no Lupercal, nor was honest Colonel Nicola a second Antony—the ragged republican army, that lay here encamped, were not the Roman legions or the Roman mob—and Washington was not a Julius Cæsar. No wonder, that the greatest orator of the first age of our government, Fisher Ames, said, and Webster, the greatest orator of his day, repeated, "Washington changed mankind's ideas of political greatness." No wonder, that his countrymen, to-day, led by the Congress of this great republic, celebrate the transaction and the scene where Washington refused to accept a crown.

But this event, notable and noted as it was, was soon followed by another of the gravest importance, upon this same scene and with the same actors. The same discontents and anxieties of the army which had sought their satisfaction in a new form and frame of government, when this design was baffled and suppressed by the authority of Washington, meditated an assertion of military power to coerce the slow and feeble justice of the existing government into an active attention to the rights of the army, and a prompt succor of their sufferings and redress of their wrongs. This contemplated and prepared movement of the army gave to Washington the most serious concern, excited his most energetic action, and was overthrown by him with consummate wisdom and courage.

The soldiers and their officers were all without present pay, had long wearily awaited the settlement of accounts and of arrears, and were passing from suspense into despair as to any provision for these, as well as for their future maintenance when they should no longer be necessary and, perhaps, no longer be remembered. The resolution of Congress, passed in October, 1780, granting half-pay for life to the officers, was but the engagement of a government without funds or credit for its performance. The alternatives of prospective provision of a Continental fund, or of the several States undertaking, to meet this burden of the half-pay seemed equally hopeless, for neither a constitutional majority of the States in Congress nor the individual States favored the measure itself. The proposed commutation of the half-pay for life for a gross sum, which the army might be willing to accept, had come to no head in the public councils or in the public mind. In December, 1782, the officers of the army here encamped, had entrusted to a committee of their number a careful and impressive memorial for presentation to and prosecution before Congress. This memorial set forth, in serious terms, the grievances of which

the army complained, and the deplorable straits to which they were reduced, by the continued failure of the civil authorities to heed and relieve their distressed condition. This committee had been competent and faithful in the discharge of their trust, and in February, 1783, had communicated the failure of any actual result, and the vagueness and remoteness of any future satisfaction of their just hopes.

But little reflection is needed to appreciate the gravity of this situation, and the resentments and resistance of the army against it soon broke out into the tone and attitude of the menace of armed remonstrance and military defiance. The commander-in-chief, in a letter to the governor of Virginia, thus speaks of the temper and the danger which this state of things had developed. "Although a firm reliance on the integrity of Congress, and a belief that the public would finally do justice to all its servants, and give an indisputable security for the payment of the half-pay of the officers, had kept them, amidst a variety of sufferings, tolerably quiet and contented for two or three years past; yet the total want of pay, the little prospect of receiving any from the unpromising state of the public finances, and the absolute aversion of the States to establish any Continental funds for the payment of the debt due the army, did at the close of the last campaign excite greater discontents and threaten more serious and alarming consequences than it is easy for me to describe or for you to conceive." We may be sure, then, that when these calm words of Washington estimate the difficulty and danger as incapable of exaggeration, the peril of the country was, indeed, alarming.

The crisis had come for which neither the Congress, the States nor the people were prepared. It had come as a shock, because the processes, the influences, the natural sentiments leading to it, had been silent, gradual and unnoticed. Yet the accumulated neglects, imbecilities and presumptions on the part of the imperfect government, the

accumulating sufferings, grievances, indignities and resentments on the part of the army—the griefs for the past and the despairs of the future, had proved too much for the temper, the forbearance and the duty, of these faithful, these veteran, these patriotic citizen soldiers. The government whose call they had obeyed, whose service they had fulfilled through poverty, and hunger and wounds, whose cause they had maintained, whose honor, whose safety, whose triumph they had made secure, was unable or unwilling to keep the engagements it had made in the past, was careless or incompetent as to any provision for their future. The people which they expected to be grateful was studying how to escape the obligation to be just. The chief share in the enjoyment of the advantages of a glorious and prosperous peace, which a generous consent should have assigned to those who had borne the chief brunt and burden of the war, was to be withheld from them, and humiliation and penury, embittered by pity and charity, were to be their inglorious fate.

Against this, their intelligence, their spirit, their pride—all that had made them the army of independence, the glory and defence of their country—rebelled. An eloquent, a passionate, a resolute expression of the thoughts and feelings that stirred in the breasts of all, was circulated among the officers and men, accompanied by a summons to meet at once for the consideration of their wrongs, and the assertion of their power and their right to redress them. These appeals bore no name, nor did they need any personal authority to commend or quicken sentiments and purposes which were already formed and waited only to be combined. The deliberations thus invited were to conduct to a conclusive and peremptory determination to confront the Congress with the alternative of promptly meeting the demands of the army, or beholding them refuse to lay down their arms or surrender their organization, in case of a declaration of peace,

or decline the further defence of the country, in case hostilities should be renewed. "Tell them,"—was the bold suggestion how the army should deal with Congress in this dreadful issue between them,—“tell them that, though you were the first, and would wish to be the last, to encounter danger, though despair itself can never drive you into dishonor, it may drive you from the field; that the wound, often irritated and never healed, may at length become incurable; and that the slightest mark of indignity from Congress now must operate like the grave, and part you forever; that, in any political event, the army has its alternative. If peace, that nothing shall separate you from your arms but death; if war, that courting the auspices, and inviting the direction of your illustrious leader, you will retire to some unsettled country, smile in your turn, ‘and mock when their fear cometh.’”

Again, my countrymen, what was there to breast this sudden flood of “mutiny and rage,” what to still this storm, what to stay this rising conflict between the civil and military arm of the government? What, indeed, but the name, the fame, the power, the character of Washington? With instant decision he set aside the anonymous call for the meeting, convoked the assembly for a day appointed by himself, and prescribed its constitution, its duty and its method of proceedings. He attended and addressed it himself, mastered it by the power of his reasons, the earnestness of his expostulations, the authority of his presence. The united voice of the assembled officers, was but the echo of the wisdom, the patriotism, the all-enduring obedience of the great citizen, the overwhelming authority of the great commander. And, thus, the illustrious leader suppressed the military revolt against the supremacy of the civil government as swiftly and as surely as he had overthrown the scheme to subvert its frame.

For the rest, these great events passed, these great dangers escaped, these admirable and prosperous interpositions of the personal power of Washington saving the failing supremacy of the civil authorities and subduing the restless spirit of the army, the course of things till the final disbandment of the troops, till these headquarters and these cantonments were all deserted, was marked by no further commotions. In this interval the commander-in-chief here penned his address to the governors of the States, in which he spoke to them, and through them to the legislatures and the people, far-seeing, far-reaching counsels of wisdom and duty, "as one having authority." On this very day, one hundred years ago, Congress issued the Proclamation disbanding all the armies, and Washington, from Princeton, under date of November 2, 1783, put forth his "Farewell Address to the Armies of the United States." These two remarkable papers embraced within their counsels, their exhortations, their instructions, their warnings and their benedictions the citizens and the soldiers of the whole country. They were, at once, the evidence and the annunciation that the great work of independence was accomplished, and the nation was established. No formal proclamations, no authentic acts, of government, could carry the weight, could receive the attention, could pervade the public mind, could animate the hearts, could stimulate the conscience, could control the conduct of this people, passing from the wilderness into their promised land, as did these personal words of their great leader. He stood, he was to stand, upon the level of common citizenship with themselves. But it was a citizenship which had been built up, and was to endure, as a crown of glory to a whole people, and an inheritance never to perish, till they had lost the virtues illustrated and inculcated by Washington.

The interest, the reverence that we feel as we recall these great transactions, as we stand upon the spot where they

were enacted, centre upon Washington. Great everywhere and at all times, the part played upon this field, in the closing months of the Revolution, was not less conspicuous nor complete in its greatness than any manifestation of his life. Had these events closed his public service, had he then forever retired from the great theatre of action and renown, had he never filled out our admiration and our gratitude by the eight years of the chief magistracy which followed the surrender of his military command—if his great presence in the framing of the Constitution and in the guidance of the nation by high statesmanship and pure administration—if all this had been wanting to the full splendor of his fame—if he stood to his countrymen in their memory, as he stood upon this very spot one hundred years ago, his face would have shone to all this people, as did the face of Moses to the children of Israel when he delivered the tables of the law.

And, now, after a hundred years of marvelous fortunes and crowded experiences, we confront the days and the works and the men of the first age of the republic. Three wars have broken the peace here proclaimed. The war for neutrality to complete our independence by establishing our right to be at peace, though other Powers sought to draw us into their wars. The war for boundary, which pushed our limits to the Pacific, and rounded our territory. The war of the Constitution which established for this people that, for them and forever, "Liberty and Union are one and inseparable." These rolling years have shown growth, forever growth, and strength, increasing strength, and wealth and numbers, ever expanding, while intelligence, freedom, art, culture and religion have pervaded and ennobled all this material greatness. Wide, however, as is our land and vast our population, to-day, these are not the limits to the name, the fame, the power of the life and character of Washington. If it could be imagined that this nation, rent by disastrous feuds, broken in its unity, should ever present the miserable

spectacle of the undefiled garments of his fame parted among his countrymen, while for the seamless vesture of his virtue they cast lots—if this unutterable shame, if this immeasurable crime should overtake this land and this people, be sure that no spot in the whole world is inhospitable to his glory, and no people in it but rejoices in the influence of his power and his virtue. If the great statesman and orator, Mr. Fox, could in the British Parliament, exalt the character of Washington, as that “illustrious man, deriving honor less from the splendor of his situation than from the dignity of his mind; before whom all borrowed greatness sinks into insignificance, and all the potentates of Europe become little and contemptible”; if the famous eloquence of Erskine could speak of him “as the only human being for whom he felt an awful reverence”; if the political philosophy of Brougham prescribed it as “the duty of the historian and sage of all nations to let no occasion pass of commemorating this illustrious man”; if he asserted that “until time shall be no more, will a test of the progress which our race has made in wisdom and virtue, be derived from the veneration paid to the immortal name of Washington”; if our own great statesmen and orators join in this acclaim,

Nil oriturum alias, nil ortum, tale fatentes,

let his countrymen, with one voice, accept and cherish this splendid possession, and exalt and perpetuate it, now and forever.



## VI

### EULOGY ON WILLIAM H. SEWARD

DELIVERED AT AUBURN, NEW YORK, AT THE UNVEILING  
OF THE SEWARD STATUE, NOVEMBER 15, 1888

#### NOTE

In 1888, the citizens of Auburn, N. Y., through a general contribution erected in Seward Park in that city a statue of their famous fellow townsman. The statue was the work of a young sculptor, a native of Auburn. At the ceremony of unveiling and dedication Mr. Evarts, who had been the political and personal friend of Governor Seward, was invited to deliver an oration.

#### ORATION

*Mr. President and Citizens of Auburn:—*

The kind invitation of Mr. Seward's fellow townsmen, and of my esteemed friends, his sons and near kinsmen, to take part in the inauguration of the statue which is, here, to perpetuate his memory, found me with every inclination of affection, and under every obligation of duty, to accede to their wishes so agreeably expressed. The only reluctance I might feel to assuming the service proposed to me in this celebration, had no other source than distrust in my ability to treat, adequately, so great a theme, either suitably to the large space in the public history of our country which Mr. Seward fills, in the eyes of all his countrymen, or acceptably to the intimate and warm associations of homage, admiration and affection which his neighbors cherish towards him, as shown in his daily walk and conversation among them for a lifetime.

But, this distrust, however well conceived, I must surrender to the indulgent judgment which has assigned to me so responsible a share in expressing your sentiments and

motives that have prompted, and justify, this public and perpetual remembrance of the name, the worth, the fame of William H. Seward.

A statue of enduring marble or brass, raised and accepted in public approval and applause, imports very much to a people of our civilization, and especially to the people of this country. This evident and demonstrative form of honor challenges the general favor of the present, and the permanent judgment of all future generations. In the mother country it is sparingly, and in our own more sparingly accorded. Neither our civic sense of equality, nor our religious estimate of human greatness, easily tolerates any forms of mere personal adulation, or of mere human exaltation. In the classic period of Greek and Roman development, neither the system of society nor of religious faith discouraged hero-worship, while their ample resources of sensuous art supplied every form of dignity and beauty to manifestations of manlike gods and godlike men. Indeed, the line between humanized images of gods and deified statues of men was almost lost, and their attributes were somewhat confused. Statesmen and orators of Republican Greece, senators, magistrates, consuls, dictators, emperors of the successive politics of Rome, all had their statues, often less upon personal than upon official claims to this affected immortality. These stately and enduring portraitures served to mark to successive generations the illuminated record of the history and progress of the nation. Their number and their conventional titles to this homage, could not long maintain, if they ever gained, a personal place in the affections, the admiration or the gratitude of their countrymen. In the lapse of time and the changed opinions of mankind scarce any interest in these effigies survives, but such as the artist and his art may attract.

The estimate of men and their actions, of events and their relations to human affairs, which the intellectual, moral and

social condition of our people and of our time, shapes and adjusts in the distribution of these enduring and conspicuous honors, insists upon higher and more profound, more comprehensive and more distinguishable, more evident and more fruitful qualities and conduct of the lives and services which we desire to illustrate and exalt, before the eyes of the world.

These qualities and this conduct, these lives and these services must, in some degree, connect themselves with the imperishable and universal traits and needs of human nature, must have wrought in the welfare of society, must have saved or built up the fabric of the State, enforced moral and religious truths, enlarged or diffused knowledge, quickened or elevated patriotism, displayed beneficent activities, increased the sum of happiness or fortified the defences of civilization.

In raising statues to such characters and to such conduct we not only preserve their memory but we inculcate and propagate their virtues; we assert and assist the progress of society and the dignity of man. If, upon this criterion, the number of our statues is circumscribed, the tribute is more signal, the instruction is more luminous, and permanence in popular approval more secure.

In the great city of this country, destined, perhaps, to become the great city of the world, our national history of a hundred years has crowned but six citizens with the honor of a public statue, falling within the province of Statesmanship and resting upon that title. Washington, Franklin, Hamilton, Webster, Lincoln and Seward! Who would wish to season his admiration of these imposing names? Whatever name might be added to this list, in a particular or general judgment, without losing its lustre by the association, what one of these would any of us submit to miss? In their title to this honor what element is there but of the highest and sincerest nature? Great powers of mind, great elevation of character, great public service, great patriotism,

a great theatre of action, and great results in the well-being of a great nation, and in the permanent welfare of the world. In this their undoubted title, what flaw or alloy is there of personal pomp, or personal power, or personal gain or personal motives or ends? No! Their work and their achievements were all for the common benefit and for themselves but a common share.

If we look more closely at these illustrious names, we may find occasion to set apart from the rest the name of Washington upon a higher plane than belongs to statesmanship alone, for he added to this the power and fame of a great commander, and the transcendent name and fame of Father of his Country. And, in the same sense, besides Lincoln's illustrious distinction as a statesman, his power and fame with his countrymen and mankind include the incomparable titles of the Ruler of a nation and the Emancipator of a race. We may, also, justly separate the name of Franklin from the list of mere statesmen, for his fame and power as a benefactor of mankind, in the domain of science and the economies of life, may well be celebrated with the most signal honor.

These three names remain, Hamilton, Webster, Seward, as crowned with the civic honor of a statue, in the great city of this great State, for statesmanship, and service to his country in the faculties, the duties and the triumphs which may attend that high career. These were all lawyers, they were all orators, they were all ministers of State, they were all leaders of political opinion and political parties; they were all charged, in turn, with a critical share of the safety and hopes of the country in junctures of the gravest moment, and in continuous conduct of matters of state of the mightiest solitudes and responsibilities. On these occasions their principles, their measures, in these capital junctures of the public welfare, were prosperous in their hands, and helped save and strengthen the commonwealth. I shall not com-

pare them, or contrast them, or their opportunities or their treatment of them. These were all of the highest and, by consent of all, they were capable of the mastery of great affairs because they showed this mastery. The towers of our strength needed to be defended, they could be defended, and by these right hands they were defended.

Hamilton's political genius, lent to the formation and adoption of the Constitution, and, as a working force, carrying the new government over the breakers of public debt and public poverty into security and prosperity, was as indispensable as it was adequate to the mighty task. Webster, with the collective force of a massive reason and a flaming eloquence, shattered as with a thunderbolt, the powerful sophistries and ambushed treasons that struck at the heart of the Constitution, and shook the pillars of the established State. He informed the understandings of the people and prepared their hearts for the appropriate, adequate and seasonal means to carry the country through the terrible struggle of opposing forces it was to encounter. Through this stormy period, it was reserved for the generation of Seward to guide and lead the nation to the desired consummation of an unmutilated territory and an uncorrupted Constitution. Of how great a part, and how prosperously, our statesman, your townsman, bore in this wonderful stage of our history, I must attempt some brief delineation.

Slavery, whose fateful name was so carefully left out of the text of the Constitution by its framers, was rooted in the structure of our society, was wrought into the compensations and balances of our constituted liberties, haunted the public conscience, perplexed with fear the augurs, scared the waking visions of the prophets, broke the chariot wheels of every triumph, and made a spectral guest at every feast.

Some thought the lifeblood of liberty, by its own vigor, would suffocate or expel the incongruous element from the body politic and leave no stain or scar behind. Some

sought for a spell to exorcise the evil spirit, and others by "poppy and mandragora and all the drowsy syrups" to prolong its sleep. Rash men wished to hasten, brave men feared to meet, wise men prepared for, the inevitable outburst of the "irrepressible conflict."

For a considerable period of time, after the permanence of slavery in our system as a possible alternative was rejected by every thoughtful statesman as intolerable and visionary, it was hoped that a basis of political treatment might dispose of the problem without breaking up the organizations of the great parties which sought to maintain their footing in the free states and the slave states alike. It was felt by many that, whenever it should come about that the predominance of the issue of slave labor and free labor should efface, in the minds of the people of the country, all other topics of political interest among them—when, thus, political parties could only hope to exist or grow on one side of a geographical line or the other, and the antagonisms of politics should divide the country into sections, instead of operating upon the diversity of individual opinions where-soever it was felt, I say, that this would be not so much a step towards, as a stage in, the dissolution of the common government; the struggles for the possession of the government, it was feared, and for the control of measures touching this absorbing issue between political parties, effectively geographical, could not very long be expected to adhere to the forms of peaceful constitutional suffrage, or always submit to the preponderance of votes.

To resist this foreseen tendency in our politics and avert it, and a search for some sovereign remedy that might assuage these urgent passions and interests, was the staple of our politics for many years. A world of wisdom and of the arts and artifices of politics, no end of patriotic fervor and self-sacrifice was devoted to the solution of this problem. I do not propose to dwell upon this period of our statesmen's

labors and trials, nor to measure or estimate, in detail, Mr. Seward's share or fortunes in these complexities or prolixities. Events and importunate exactions, on one side and the other, of these implacable contentions, brought us face to face with the dissolution of the Union, and the destruction of the government, as an over-shadowing and flagrant fact. The long debate came to an end, and force was to decide what the debate had fathomed and explored but had not settled. The various opinions whether the slavery question had enough of elemental war in it to burst the strong bonds of the Union, now, all went for nought. The subordinate doubt whether, if the nation was pushed to the point of failure to reconcile the irreconcilable and repress the irrepressible, separation would not need to be the logical consequence of that situation, was soon swallowed up in the conviction that separation, by contract, was as impossible as it was illusory in speculation. The manifest condition in which the people of the country were placed, then, however slowly it might disclose itself to men of different party or personal associations, was whether the nation could be dismembered in the interest of slavery, or its integrity could be assured, whatever might befall slavery, in the name and love of country, and of liberty and union, one and inseparable.

Before the instant and urgent project of the dissolution of the Union had occupied the scene, three distinct views, concerning this dread possibility, had been formed in the Northern mind, and had divided the leaders of opinion and of politics into three groups. The first included a very earnest, though not very numerous body of thinkers and agitators, who had accustomed themselves to place the separation of the Northern people from responsibility for, and complicity in, the continuance of slavery, above all interest or duty in the maintenance of the Union. These doctrines and their inculcation made light of the question of the dis-

solution of the Union, as compared with the extirpation of slavery from the nation in which they should continue their citizenship and allegiance. Of the votaries of these opinions some thought this end might be reached consistently with preserving the integrity of the nation, while others regarded it as impossible, and but a waste of force to calculate upon it. This group included not only the recognized sect of abolitionists but also a class of politicians who pleased themselves with the notion that, to escape the stress and reproach of double dealing, on this troublesome issue, in the pursuit of political careers, it was better to divide the country to accommodate this exigency of their ambitions. This group could be counted upon to resist the extension of the power and corruption of slavery in our system, to the extreme, but not, also, to couple with it the inexorable condition of the maintenance of the Union.

The second group of Northern opinions and Northern statesmen and politicians, looked upon the issue of slavery as incapable of treatment, politically,—with safety to the integrity of the Union and the maintenance of the Constitution—except by the methods of conciliation and protraction of the issue till the preponderance of freedom should demonstrate the hopelessness of any resort to force, or efface any desire to attempt it. The leaders of these opinions set themselves against any provocation of the issue of force. Always and under all circumstances devoted to the preservation of the Union at every cost, they had ever before their eyes the ease with which the passions of the people and the exasperations of ambition might unsettle our “unity and married calm of states,” and the immeasurable consequences of opening such a strife. This group embraced the great body of the Whig statesmen, and their supporters, and a large body of the Northern democracy.

The remaining group was made up of those who refused to consider such grave issue as the dissolution of the Union, or



its dismemberment or preservation by force, as possible to arise in the conflict of opinions and interests between slavery and freedom. They regarded the cohesion of our body politic as secure and immovable as the natural cohesion of the solar system. They affected to think that the several elements that held us together were as permanent and dominant in their operation as the natural elements that secure the harmony of the spheres. Unaccustomed, therefore, to weigh the contingencies of a possible disruption of our political system, under whatever severity of political controversies and collisions, it was obvious that when the disruption should take place, it was yet problematical what disposition and what efficiency they would bring to deal with the flagrant outbreak, which they had not counted upon as possible.

No competent judgment but must have felt that, unless these various opinions and theories and political associations, could be combined and animated and welded together, in a concentrated purpose to preserve the Union first, last and always, and at every cost, as rapidly as possible when the outbreak should occur, disaster, if not fatal disaster, might attend the efforts of the government to maintain itself against what would show itself as a most formidable rebellion.

Mr. Seward's attitude towards these various opinions was admirably suited to bring about the necessary fusion among its groups. Hostile to slavery to the utmost, and intolerant of any calculation of its permanence in our system, or of any policy looking to its strength or defence;—incredulous of any possible choice by any great body of our countrymen of slavery, out of the Union, over its extirpation by constitutional processes within it;—open and sincere in absolute devotion to the Union, and contempt for all calculations of its value, or any balancing of evils under the Constitution against ruin by its destruction—Mr. Seward in the Senate

and before the people, stood for conciliation, prudence, firmness, courage, loyalty, in one united purpose and action of all lovers of the Union and all opponents of slavery, to preserve the one and ensure the destruction of the other.

From the time when, in 1849, he took his seat in the Senate until he left it to take his place in Lincoln's Cabinet, Mr. Seward held no other view than this; that slavery, by his voice or vote or acquiescence, should gain no enlargement of strength or spread or duration, and that it must abide its fate under the Constitution and within the Union. That this involved, by necessity, its decay, its decline and its destruction was as apparent to his forecast as it was uppermost in his purpose, and desire. Midway in this senatorial service the repeal of the Missouri Compromise was accomplished. This put an end to the *concordat* between freedom and slavery upon which a *modus vivendi* for them had been found, under the conciliations of the Constitution and the traditions of our legislation, and the issue was handed over to a sheer trial of strength between the two geographical sections, with whatever methods and results might pertain to a trial of right by might. These twelve years of Mr. Seward's life include, substantially, the whole period of public oratory and parliamentary influence that make up the area and arena upon which he exhibited and exercised, upon a great theatre, and upon subjects of the highest import in the critical affairs of a great nation, the great faculties with which he was endowed for the safety of the State. manifold were the occasions, multiform the modes in which these efforts were put forth. For fullness and fertility, for variety and force, for resolution and efficiency, no equal array of speeches—none of them exhibitory, all of them responsible and to an end—can be found in the records of our statesmen. No doubt, no single speech of Mr. Seward can compete for the crown of eloquence with the speech of Fisher Ames on the

British treaty or of Daniel Webster on the Foote resolutions. These stand, by popular and critical concurrence, at the head of the annals of American parliamentary eloquence. But, as a whole series in one great debate, in which every power and energy were put forth in this protracted peril to the safety of the republic, these successive speeches of Mr. Seward are without a parallel.

Close upon the repeal of the Missouri Compromise came the formation of the Republican party out of the Northern followers of the old Whig and Democratic parties. This new organization took the field, at the start, with no supporters in the slave states. This decisive movement called out the array and raised the standard of political revolt against the traditional pretension that the power of slavery was safe, under the Constitution, against political proscription. This declaration of its principles, this proclamation of its purposes, was not misunderstood on either side of the issue raised, and proved the first stage of avowed political sectional division within the province of the suffrage. The consideration of this sectional vote and its triumph in the electoral colleges, in the canvass of 1860, by the election of President Lincoln, transferred the contest from the province of the suffrage to the field of armed rebellion and armed defence of the government, the Constitution and the Union—from the arbitrament of peace to that of war.

The political leadership of the movements which prepared and built up the Republican party and culminated in this stupendous transformation of the scene of its action from peace to war—movements which, thenceforth, were to be worked out by the methods of the sword and the shock of arms—would seem naturally if not necessarily, to have fallen to Mr. Seward as the candidate in the canvass, and the Chief Magistrate of the nation in the supreme conduct of the great transaction. But the situation was unprecedented, and the

choice was—not without prudence and, certainly, not without prosperity,—made to turn, with a measuring cast, upon the leadership being accorded to the vast, homogeneous and ardent population of the West, rather than to the older States of the East,—to the Mississippi valley, and not to the Atlantic coast. No doubt the great body of the party looked up to Mr. Seward as the bold and persistent, the sagacious and circumspect, organizing mind which had drawn together the powerful array which was marshalled for the impending conflict. But neither Mr. Seward, nor these his followers and admirers, made any question of the wisdom of the patriotic convention's choice of a candidate. The task before them all was great enough, and felt to be enough, for every demand upon the faculties and the courage of leaders and followers alike.

The drama of our Civil War and the parts played in it by the chief actors, fills a great chapter in the world's annals, and brings it and them into comparison with the largest transactions in human affairs and the capital figures in them, which the history of the race has recorded. If it should ever be needful or useful to scrutinize and dissect the relative importance of the shares in this arduous service and this resplendent triumph, which fell to each of our great statesmen and soldiers, the task may well be left for the serener judgment of later times. It is for us to exalt the common and united service and give our homage to the grandeur of their common and lasting fame. In the meantime, the lustre of each character and of his due proportion in the conspicuous actions of the marvelous work, is best enhanced by magnifying and not belittling the parts of others played on the glorious scene. In this spirit and in this aspect the particular enlistment to extol and perpetuate the memory of this or that reputation, as pre-eminent, will best find its exercise. The proud encomium, which has come to

us from ancient days, *primus inter pares*, may thus be over-matched by the more singular praise of *par inter primos*. It is nobler to be equal among the greatest, than to be merely the greatest among equals.

The very large part and conspicuous part which Mr. Seward took in the common counsels of the new administration, the unmeasured support which he gave to the President in all the cares which rested upon him, and to his colleagues in the cabinet in the arduous labors and responsibilities distributed among them, I need not insist upon. Events alone would demonstrate this unity and concord, and the records of the time confirm it. We may therefore turn our attention to some observations upon that department of the government over which he presided, the Department of State, in charge of our foreign relations during the Civil War.

The calculation of the revolted population that their distribution into States would not only put at their service ready organized rebellion, but save them from the distraction of society which civil war would otherwise bring in its train, was not misconceived. But, they strangely shut their eyes to the fact of organized loyalty, by the same reason, being preserved among the faithful states and the weakness of dissident sympathy with the rebellion, in their population, averted. De Tocqueville thought it, in our system, a peril to the united government which it could not survive, whenever state rebellion should raise its standard. But when the time came it was this very feature in our admirable distribution of powers between nation and States that proved the safety of the common government and the protection of society. It was inattention to this organic scheme of our government, on the part of foreign Powers, that misled them in their confident anticipation of our dismemberment and our humiliation before their eyes. Out of this theoretic infirmity, as the wise men of Europe interpreted it, came our

strength. When the statesmen of the great Powers of Europe pronounced, as they did, our suppression of so great a rebellion impossible, they should have satisfied themselves with saying it would be impossible, under any form of government of which they had experience.

The immense advantage of this speedy accommodation of a civil war to the condition of public war, to the government in dealing with the revolted population and in marshalling the resources of the loyal people, cannot be over-estimated. Under this operation, the task of the government, however prodigious, was manageable by the same methods that would have been adequate and appropriate to a foreign war with an antagonist of strength equal to that of the domestic rebellion. The vast transactions of the treasury, the immense combinations and operations of the land forces and the naval service could thus be handled, and were handled, without a break in the regularity of any functions of government, and without any persistent disturbance of the peace in the loyal region of the country.

In the province of foreign affairs and the conduct of them, this assimilation of our civil to a public war placed us in an attitude of delicacy and difficulty towards the foreign nations whose interests were deeply and rudely affected by the sudden transformation of this great and friendly, powerful and commercial nation into a vast theatre of domestic war. Soon it appeared that the lawful exercise by our government of the rights of public war to reduce the revolt, and which the rules of public law required neutral nations to respect and submit to, carried into the internal affairs of these nations, into their industries, their commerce, their finances, the values and prices of their domestic trade, the employments of labor and the rate of wages, as much disturbance, derangement and suffering as if they themselves were parties to the war itself. Soon, too, it appeared that under our blockade of the Southern ports, the tempta-

tion to a vast trade to violate and evade it sprang up and was irresistible. Soon, as well, the exigencies of the Rebellion demanded a foreign base of supply and a foreign maritime resort for naval constructions and naval recruitments. In short, so closely were the industrial and commercial interests of foreign nations interlocked with our own, the maintenance of our domestic war seemed to partake, in nature and effect, so strongly of the consequences of a war upon the fabric of their peace and prosperity, that it must urge them to coerce a peace or take open part in the war itself. In addition to these natural and urgent influences that were pressing upon foreign nations to meditate and speculate how far and how long this novel situation should be or could be allowed to continue, without some form of friendly or hostile intervention, the political calculations and designs of France and England, as they watched the progress of affairs on this side the water, could not be looked upon by our government without the greatest distrust and concern. Imperial France allied with imperial Mexico, planning an alliance with our revolted States—England watching for the expected, if not desired, event of our dismemberment, and counting upon an industrial and commercial conquest of both the broken parts—these, indeed, were attitudes and eventualities which demanded in the conduct of our foreign affairs unsleeping vigilance and an active and energetic diplomacy.

These observations on our foreign relations during the war can be carried, on this occasion, no further. They go scarcely beyond mere allusion to the elements of difficulty and danger, without attempting an exposition of them. The more they are explored and understood, the graver and more numerous and complicated they appear. The responsibility in this department of the public service, in all cabinets, foreign and our own, even in time of peace, rests wholly upon the minister in charge of it. In discordant times in periods when war rules the hour and brings upon the

scene its own inexorable rights, its own despotic laws, the management of foreign relations is, of necessity, at the charge of one mind, of one will, of one action and one accountability. His eye must survey the whole field, his forecast must take in the future, his wisdom, his courage, his faculty, his will must, for better or worse, be the forecast, the wisdom and the will of the government and the country. He who can point, in this province of human affairs and mastery, to the crown which ends his work in the prosperity and triumph of his policy and his methods, may, more than in any other great sphere of political duty and political success, expect and receive the applause which belongs to personal qualities, personal conduct and personal achievement. For this reason great reputations have been deservedly made and conceded for prosperity in single instances, in isolated negotiations and, even, in subordinate hands. Who, then, can measure the vast services, and who will venture to qualify the honest fame of one who held, through the whole great drama of our Civil War on the world's stage, the part Mr. Seward filled and of the action he displayed?

The leading ideas which, from the beginning to the end of his administration of the State Department, during the first term of Mr. Lincoln's Presidency, held possession of the mind of Mr. Seward, and animated and directed his management of the situation, were these. First, that a nation rent by civil feuds gives at once an opportunity for foreign intervention in its affairs, and constitutes the chief peril to be guarded against. Second, that the motives and the occasions for this intervention in our domestic conflict, were more profound and more importunate than could well be measured. Third, that no calculation could be tolerated of the degree or form of the mischief which would come to our affairs, if this intervention should occur. Fourth, that to prevent this intervention would require and must receive incessant, intelligent and intrepid action by this



government, through the best means and agencies at its command. And last, that neither public opinion, nor popular excitement, nor theoretic reasoning as to our rights, nor our pride or our passions, could affect his duty and his responsibility to see to it that intervention did not take place. If, he conceived, this great end was secured, there would be time enough in the future for settlement of all trespasses and redress of all grievances. If, in spite of every effort, foreign intervention should occur, this disaster and our resentment would swallow up all minor incidents. Upon this line Mr. Seward conducted his foreign correspondence, and shaped and directed all other agencies of influence abroad which were at his service. His policy was triumphant. The rebellion was absolutely suppressed without intervention, as, with it, it would not have been or, certainly, not crushed when and as it was, if intervention had played a part in the transaction. France retired from Mexico and Mexico remained and France became a republic. England was brought into judgment for excesses of neutral privileges, and condemned by the august Tribunal of Nations, assembled to pass upon her conduct.

The strange last stroke of the Rebellion, as from a dying hand, compassed the death of Seward and Lincoln and accomplished the dreadful purpose in the martyrdom of the great President. The calm sentiments, the prudent counsels, the serene wisdom, the all-embracing charity, which suffereth long and is kind, which, by consent of all men, the situation and the process of restoration and reconstruction manifestly called for, were, for the moment, rudely set aside. Lincoln alone held in one hand the moral, the political, the magisterial gentle and powerful domination over the minds and hearts of his countrymen which could sway them to these controlling duties and purposes, and that hand had lost its cunning and its strength. Suddenly, the task was passed by the Constitution, into unprepared, unselected,

unentrusted hands. No statesman was ever placed in more difficult circumstances than befell Mr. Seward by this tragic calamity. Yet nothing was more necessary, nothing more peremptory, than that Mr. Seward should stand between the living and the dead, and attempt to stay the plague of confusion of counsels, vehemence of passions, and the heady fight of factions which ensued upon the death of the President. All these, as we know, culminated in an attempt of the two houses of Congress to depose the President, through the constitutional process of impeachment. The failure saved us from a disaster which would have been to our institutions a reproach to the past, a peril to the present and a menace to the future.

And thus came to an end the great drama of our Civil War, and thus the public life of Mr. Seward was brought to its close. In the last as in the earlier stages of his public service, the principles, the methods, the policy which he pursued were crowned with success. His political fortunes were never separate, and never separable, from the prosperity of his party and the welfare of his country. The political good of the country was always the end which he had before him. The political means to accomplish this political end, under our institutions, were the action of parties through the methods of free speech, free press and free suffrage. In this scheme of our wide democracy, he believed with Mr. Burke, "that no men could act with effect, who did not act in concert; that no men could act in concert, who did not act with confidence; that no men could act with confidence who were not bound together by common opinions, common affections and common interests." In the hour, in which I might hope to engage your attention to the man and the career which it is your delight to honor, I have not attempted the impossible task of unfolding or rehearsing the manifold beneficent and elevated actions of his busy life. I have sought rather, to place before you this imposing

figure among men upon the solid structure, as if upon a lofty pedestal, which his public career has built up, to his own fame, in the great temple of liberty and justice which we hope will remain the habitation of our people forever.

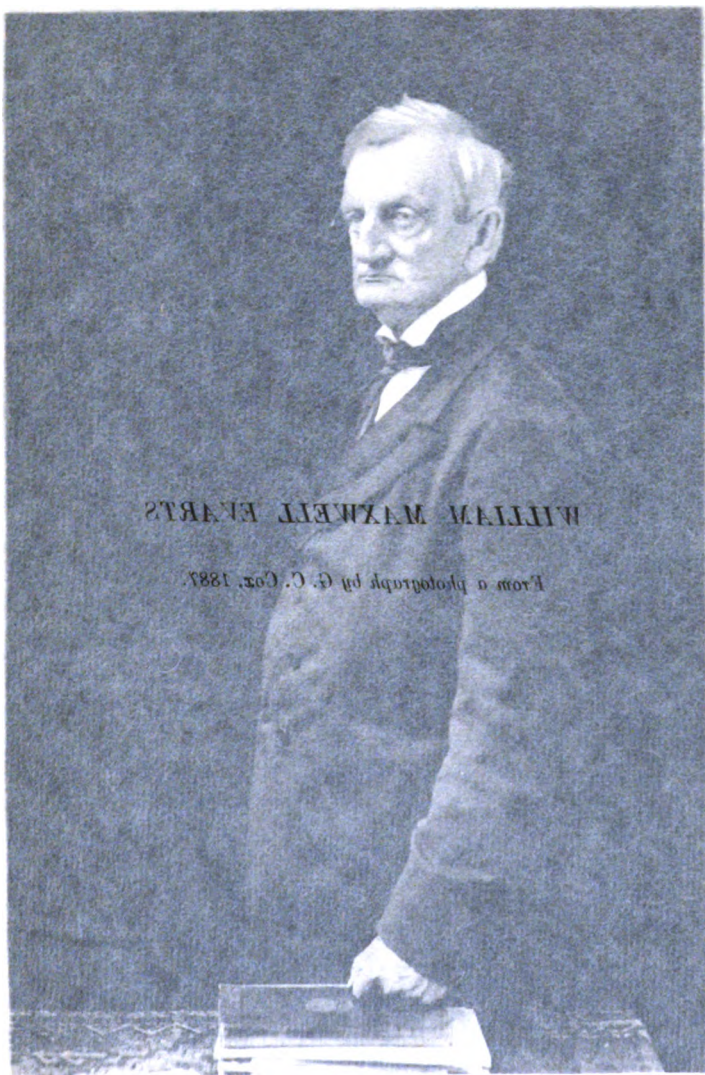
To me much meditating upon the collective traits of Mr. Seward's character, his life and work seem among the sincerest and the worthiest, that the history of government and the annals of statesmanship have shown. Those traits were a calm judgment, a penetrating forecast, an intrepid courage, a fervid spirit, unfailing patience and the largest charity. These united with great intellect and high morality, made up his qualities and his preparation and equipment for the strenuous public services he was destined to perform. His system of life, his conduct of life comported, from the beginning to the end, with these collective traits. He betrayed no trust, he deserted no duty, he quailed before no danger, he recoiled from no labor, he broke no friendship; he rose on no man's fall, he gained by no man's loss, he fed no grudges, nor raised his own repute by defamation of others. Toward the dear country which he loved, the great Constitution which he revered, the institutions of equality and freedom which he adored, the work of his life was given, to strengthen, in every part, the republic, add stability and permanence to its frame, and cure all evils in the body politic—*ad firmandam rempublicam et ad stabiliendas vires, et sanandum populum omnis, ejus pergebat institutio.*

*Mr. President and Citizens of Auburn:—*

In decreeing a statue to your celebrated townsman, you concur in the general judgment of the country that his life has merited this honor. But there are elements of closer and more delicate associations, on your part, with this life than those which enter into his public fame. Here he lived in the sunshine and the shadow of your and his household lives. Here he began, here he pursued that public course

which, step by step, before your eyes, carried him up the steep ascent to the highest honors of the State and of the nation, and the applause of the world. Here, his public services completed, he came back to be your daily companion. Here, from a year's travel, in which he compassed the whole globe, receiving everywhere illustrious honors, he returned again and for the last time. Here, visibly, before your afflicted eyes, progressive infirmities oppressed his bodily frame, but they did not dim the light of his understanding nor abate his unquenchable spirit. Here, his mortal remains were laid in the grave which your hands had prepared for them. Here, then, while others lay upon the altar raised to his memory the rich gifts of homage, of honor, of blessing and of fame, you bring, besides, the precious gold and frankincense and myrrh of your heart's affections to the memory of your neighbor and your friend. Now, and henceforth, your beautiful vicinage shall be counted by your countrymen among the sacred places of the land, as the home and the tomb of Seward, and the shrine of the noble statue, that illustrates his noble life.

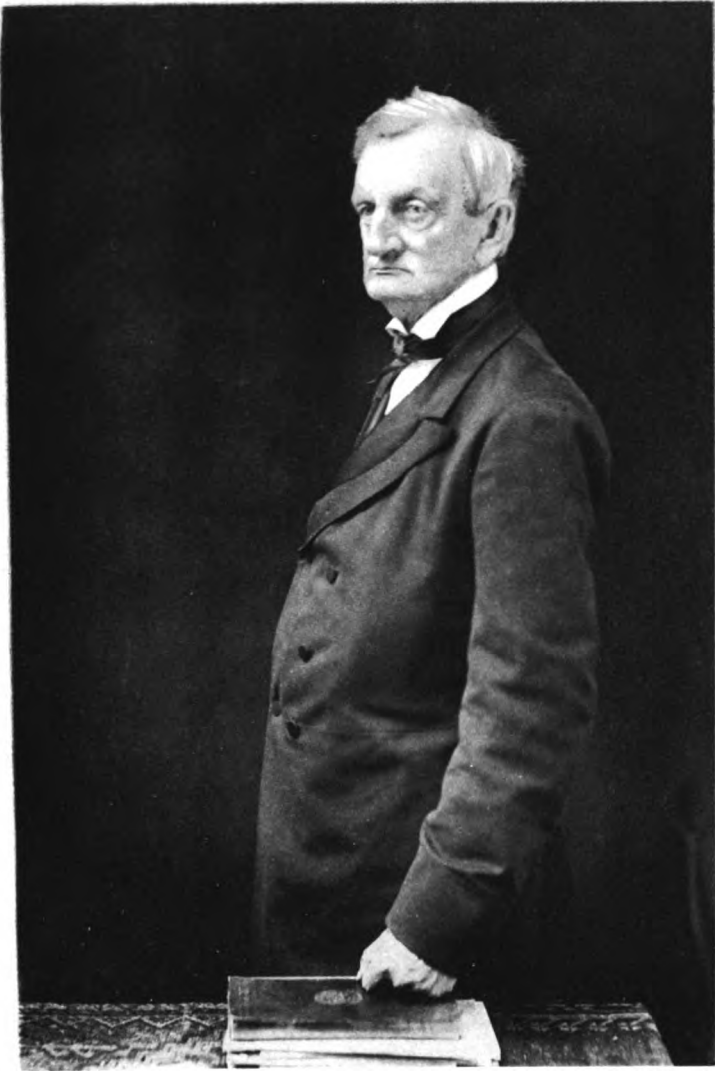




Wm. M. Everts.

**WILLIAM MAXWELL EVARTS**

*From a photograph by G. C. Coz, 1887.*



*Wm. M. Everts.*





## MISCELLANEOUS AND OCCASIONAL SPEECHES



# I

## TRIBUTES TO MEMBERS OF THE BAR

### NOTE

Among the many occasions when Mr. Evarts was called upon to speak were those when the members of the bar met to commemorate the lives and to pay their tribute to the characters of those of their brethren who had died. For the members of his chosen profession, Mr. Evarts cherished to a very great degree the fraternal feeling that characterized the bar of his day in a manner more marked perhaps than that of the present. In each of the five addresses of this nature that are here included there were special circumstances of association in his life that made it particularly fitting that he should speak and that gave to his short addresses an interesting autobiographical touch.

Ogden Hoffman, Daniel Lord, Charles O'Connor, Chief Justice Waite and Edwin W. Stoughton had all touched closely Mr. Evarts's career in one way or another.

Mr. Hoffman, dying in 1856, an eminent veteran of the bar, had been chief counsel for the prosecution of Monroe Edwards, in whose defence Mr. Evarts as a young man had won his first distinction as an advocate. At the time of his death, Mr. Hoffman was acting as counsel for the State of New York in the Lemmon Slave case and had just entered upon the Parish will case, one of the famous litigations of the time. In both these employments Mr. Evarts succeeded Mr. Hoffman.

Mr. Lord had been for many years the leader of the bar, enjoying the confidence of the merchants and bankers of New York. Coming to New York in 1839, Mr. Evarts entered Mr. Lord's office as a student. Later we find him and his former chief on opposing sides of two important cases—the Savannah Privateers and the Prize cases.

Mr. Evarts's relations with Mr. O'Connor had been for the most part wholly professional. When the Lemmon Slave case was argued in the New York Court of Appeals Mr. O'Connor, his opponent, stood as the leading advocate at the bar. From that time Mr. Evarts, often opposed to him, soon rose to take Mr. O'Connor's

place in the estimate of the profession. In his tribute to Mr. O'Connor he pays homage to him as the exemplification of a great lawyer and to the profession, to which the lives of both had been devoted.

Chief Justice Waite and Mr. Evarts had been classmates at Yale where they had formed a friendship that continued in after life. Their paths had been divergent, Mr. Waite making his professional career in the West, but the two men appeared in association as counsel for the United States before the Geneva Tribunal.

Mr. Stoughton had held considerable prominence at the bar of New York and had enjoyed a lucrative practice in patent litigation. The circumstances of life had brought Mr. Stoughton and Mr. Evarts into close social touch and between them there was always a cordial friendship. In the following appreciation one finds a note of personal bereavement in the gradual dissolving of the associations of a lifetime.

To these five eulogies of lawyers delivered to lawyers, we have added Mr. Evarts's remarks in the Senate of the United States in the proceedings of that body in memory of the Vice-President, Thomas A. Hendricks, who died in office. Mr. Evarts gave there an estimate of Mr. Hendricks as a brother lawyer as well as in his character of a man in public life opposed to him in political opinion.

## OGDEN HOFFMAN\*

I cannot, Mr. President, but answer to the call of the committee who have arranged this meeting, to say a few words as expressive of the sentiments and the feelings of that portion of the profession who stood, as I did, among the admirers, at a distance, of Ogden Hoffman, and among the grateful recipients of his personal regard, or of his professional aid and assistance. I do not believe, sir, that there is anyone among the younger members of the profession who does not recognize in all the intercourse he has ever had with Ogden Hoffman the kindness of a friend, without one touch or taint of flattery—the kindness of an honest friend who speaks to him the truth, and that kindly. I, more than most, sir, should feel this relation of a young man to his senior, in the case of Mr. Hoffman, for it was my fortune, now just fourteen years ago, a stranger to the bar and to the community in which I have since lived, to be thrown, not in professional connection, otherwise than on the opposite side of a somewhat celebrated case,† with Mr. Hoffman—a criminal cause that attracted much attention from the character and conduct of the accused, and from the eminent list of counsel on both sides, in which I, indeed, sir, did not consider myself entitled even to be enumerated. The result of that cause was the conviction of the offender. I was a stranger to Mr. Hoffman until then, but I have never forgotten either the singular kindness of the manner nor the singular wisdom of the counsel with which, at the conclusion of that cause, Mr. Hoffman took occasion to speak to me. After giving me the most agreeable assurances

\* Ogden Hoffman died May 1, 1856. A meeting of the bar was held in his memory in the United States Circuit Court on Saturday, May 3, 1856, at which Judge Samuel R. Betts presided. Appropriate resolutions were offered by Judge J. W. Edmonds, and the other speakers besides Mr. Evarts were Mr. Ambrose L. Jordan, Mr. Joseph Blunt, Judge Emmett, Attorney General Caleb Cushing, Mr. Francis B. Cutting and Mr. John Jay.

† Monroe Edwards Case.

that I had gained, somewhat for a young man, in repute, by the course of the trial, he then said to me: "And, Mr. Evarts, though it may not be agreeable to you to know that your efforts have been defeated, let me say to you that that is the most fortunate circumstance in the result of the trial to you. I was, as you know, some years ago, the counsel of a criminal so accused; the result of my efforts secured his acquittal; I gained, as you know, in professional repute, but I have ever been sensible, though my own conscience suggests nothing with which to reproach myself, that the sober sense of the community has taken some umbrage at that result, and I have suffered from it." He felt, sir, that there was an impression that his great professional abilities, equal to almost everything, had been interposed between the public justice of the State and a deserving victim. "Now," said he, "on the result of this trial you are saved from that ill-influence; take my advice, sir, adhere to civil business, and let the criminal courts alone." I do not know, sir, but to me then, and to me since, it has seemed both as kind an expression and as judicious and sensible advice as an elder could give to a young man; and I had no other claim upon his attention than that I was a young man.

Now, sir, Mr. Hoffman was undoubtedly a very able lawyer; I mean by that he was an able lawyer in the sense that every lawyer, or every other professional laborer, is able, if he be able at all; that he was able for the time, for the occasion, for the effect for which he was employed. He had embodied, he had digested, he had assimilated to himself the great principles of law, the great principles of reasoning, the great principles of human influence that make up the character of a lawyer; and he came into court not to display the sources from which he derived his strength, but to exhibit the strength he had derived. Mr. Hoffman was a man that brought much greater services to the occasions of his client, and to the exigencies of his cause, than mere

professional or lawyer-like ability and learning. He had an admirable tact and common sense. It never was a part of his system of the conduct of professional business to bring into play the abilities that might be useful or glorious in reference to the profession and the services of the profession. In general, he studied the cause; he withheld this or he employed that argument precisely according to the circumstances of the case. He did not fly in the face of opposing influences or arguments when he thought he could not overcome them, and when he knew that he had a circuit to the heart of the jurymen or to the intelligence of the judge, that evaded the difficulty that he might not be able to surmount. He did not consider himself; he did not act for the purpose of exhibition at all; he acted for his cause, and he gave to his client, and to the attorneys and counsel with whom he associated, the wisdom of a practical influence and long experience carefully and earnestly exercised. He had, sir, besides, a high sense of professional and of public duty. I do not think that any of his compeers in age—certainly none of those who have had no longer experience than myself at this bar—can recollect any instance in which Ogden Hoffman helped out an unjust cause by throwing into the scale the weight of his personal character, his honor, or his word. He did not sell his character either in whole or in part. He was a lawyer, and his retainer covered the services of a lawyer; it never touched the integrity of his character. Neither by wholesale nor in retail did Ogden Hoffman sell his character to any purchaser. There was another trait in his sense of professional duty and feeling which I had occasion to become aware of; and as it has never been my fortune to fall in with a similar instance among the members of this bar, I may be allowed, perhaps to relate it. Not very many years since, in the Federal Court, your Honor assisting at the trial, there came on some public causes of very great importance. The sickness



of the then United States Attorney had thrown the conduct of the affair into my hands. The Federal government zealously sought for the eminent aid of Mr. Hoffman in prosecuting to justice the offenders. It was a terrible case, sir—a bloody mutiny and piratical murder. Public justice required that almost every effort should be made to secure—upon the evidence, such as it was, brought from mid-ocean and greatly circumstantial in its character—the conviction of those guilty men. And yet, when the retainer was offered to Mr. Hoffman, though he had a strong personal desire to represent, in the necessary absence of Mr. Hall,\* his friend, the office thus temporarily vacant, and though there was every temptation also which the magnitude of the fee could present to an honorable mind, Mr. Hoffman positively declined to take any part in the transaction, or to receive any retainer against the life of a fellow-man until he had, by his own examination, satisfied himself that, by controlling and irresistible evidence of guilt, absolute, not technical—moral, deep, pervading guilt in everyone accused, stamped the transaction. The learned Court so held, and the jury so found, and the public justice was vindicated. But Ogden Hoffman would take no part in it, being under no official duty so to do, until he was satisfied that the life of a fellow-man was not to be exposed by his acts and by his powers, except to justice.

But Mr. Hoffman was eloquent, and, since one who, as himself, of the same career in the profession, and, as himself, made the eloquence of the bar and of the public assemblage a study and an exercise, has so placed him above his compeers in age and dignity in the profession on this point, I may be excused for saying that, to the younger men of the profession, Mr. Hoffman's seemed to be not only an eloquent present voice, but the echo of the dead eloquence of the bar, of which we have heard so much, but of which we should

\* Jonathan Prescott Hall,

have known nothing but for his transmission of the sound.

But, sir, who shall take up that voice of forensic and of public eloquence now hushed, for the moment only, let us hope, on his bier? I do not know who it will be—I do not know whether eloquence in a free country is to be divorced from the hustings, and is no longer to be heard in its old home of the forum—but whoever it shall be, let him learn that if eloquence is, as the greatest Grecian master of it said it was, a weapon, depending for its effect on the force and skill of the man who wielded it—let him learn, I say, to wield it as Ogden Hoffman wielded it; let him know that a sharp tongue and a bitter voice, though they may yield a triumph of the intellect, yet in wounded friends and bleeding enemies carry no credit to the heart of the man who employs them. Let him use his eloquence for public justice in his duty as a lawyer, as the soldier uses his sword in his duty as a soldier; and let him know that it is no part of a true soldier at the bar to brandish his weapon of eloquence in a mere gladiatorial show to wound witness and party and counsel and friend, but that it is to be directed to pierce through the joints and marrow of a cause, and there only to be employed. I do not know, sir, that great intellectual abilities, great professional experience and discipline, and great powers of eloquence were ever attuned to a kinder sympathy, or tempered with kinder sensibilities than in the use that Ogden Hoffman made of them all.

But, after all, sir, justice, kindness, and a conscientious discharge of duty are the subjects and the traits in reference to a deceased friend, that we should most love to exhibit to others, most desire to dwell on ourselves. I do not know but that it would be to surrender judgment to feeling to say, that when under the immediate shadow of death the aspect of life then taken is likely to be the safest guide or impulse in human conduct; but I think we may all admit that beneath this shade of death we may find a proper influ-

ence to temper the glare of life, and that within this sorrow of the grave we may find some just ingredient to dash the joy of the conflict of life, and to make us all remember that it is the end that must justify as it must record our aim. It is one of the beautiful stories of mythology that a contending giant always gathered new strength every time he fell upon his mother earth. On such occasions as this, sir, we are all brought to touch our mother earth, and if we rise from the prostration with the new strength that such solemn influences should give us for the contests of life, we have indeed arisen the stronger that we have been humbly abased. But let us know and feel that—

Only the actions of the just  
Smell sweet and blossom in the dust,

and to abide that test, if we would have our career tried when it is closed, we must be now and constantly trying it as it is being carried out. Let us know and feel that all the triumphs of eloquence and of intellect are vain and useless, if not positively injurious and offensive to the moral sense of men and angels, unless they tend in some degree to the welfare of our fellow-men, in which service we were born, and to which service we should, to the last, adhere. But, sir, all that we have said, and all that we have thought of the great career of Ogden Hoffman, must be hushed in the solemnity of death, and now, even, to this great procession that attends upon the call and the announcement of his death, we must shroud the banners that would display his brilliant victories, and muffle the drums that would sound his fame, for the procession that would record his triumphs marches, alas! to his grave.

## DANIEL LORD\*

I am sure, Mr. President, and gentlemen of the bar, that in our assemblage to-day, upon the occasion of the death of an eminent lawyer, an honorable citizen, an upright and excellent man, we shall not at all feel that we are acting only in obedience to custom—a custom which, it has sometimes been alleged, assumed too much the importance of the public relations which the bar held to the community; for I am quite sure that there will be found to be nothing of mere pride of our profession, nothing of mere effort, or of honest disposition, to advance its claims as a public profession on the attention of the community, when the occasion of our assemblage is, within the knowledge, and by the confession of this entire community, the death of a most distinguished citizen. Mr. Lord, more I think than almost any other of the eminent members of our profession, whose loss we have been called upon to deplore, was a lawyer of this city and of this State; was a lawyer through the whole course of his life, of this city,—in his birth, his early education, his first admission to the bar, and the whole progress of his professional life down to the moment of his death, being of this city. We may very briefly note the principal dates of this distinguished career.

Born in the year 1795, he was graduated at Yale College, in as rapid a course of age to complete his instruction as was then habitual. In the year 1814, at the age of nineteen, he entered upon his professional studies, completing them, partly at the celebrated law school at Litchfield, and finally in the office of an eminent lawyer of the

\*Mr. Daniel Lord died in New York City March 4, 1868. On March 10, 1868, a meeting of the bar was held in the court room of the United States District Court to give public expression of feeling at his death. Mr. Evarts, in seconding the resolutions presented at the meeting, made this address. The other speakers upon this occasion were Mr. William Allen Butler, Mr. William Beach Lawrence and Mr. Charles O'Connor.

generation of the bar preceding his, and yet who lived to be known to all of us so well, George Griffin. As soon as was permitted, in the course of years after graduation, he completed his professional studies, and in the year 1817 he was admitted to the bar. In 1818 he took that step in life which fixes the domestic character of a man, by marriage; and in the year 1868, now before our eyes, his life, professional, social, domestic, public, has terminated.

If we recall, as I have been led to do, by a somewhat hasty glance, the series of causes of the most excitable character, which, in the Federal or State courts, have engaged the attention of Mr. Lord, we shall see how large an area they covered, and how extensive a number of the most important professional employments came year by year, and step by step, to be under his charge. In the State courts, just before my own personal acquaintance with Mr. Lord commenced, the celebrated Fire causes, which were new in principle, striking in character, weighty in import, vast in their pecuniary interests, had been conducted successfully to a close by him. Then the Dutch Church case, one of the largest questions of title to property held under charitable use, came soon after. The case of Wakeman and Grover, a leading case on the most important subject of trust assignments; the American Life and Trust cases, containing in so many forms questions of usury, and of corporate action, arising in the transaction of that large institution; the case of the Leake and Watts charity, embracing questions of wills, and of charitable uses; the Mason will; the Phelps will; and, running through all the same period, a series of insurance causes, of mercantile causes in every form, of revenue cases, either in the forfeiture side of the Federal courts, or involving the question of duties and their exaction, combined to fill up, year by year, month by month, day by day, the course of his practice, embracing these important topics of jurisprudence. In the United States courts, the case of

Carver and Astor, known as the Putnam County Land case, and finally argued in the Supreme Court of the United States, in the year 1830, by Attorney General Bronson and Mr. Webster on the one side, and by Mr. Ogden and Mr. Wirt on the other, was the termination of a great and important controversy between the title made under the statutes of forfeiture following the Revolution, and the title under a private conveyance, resulting in the maintenance of the superior title of the private conveyance. This is understood to have been a case in which Mr. Lord was the responsible and managing lawyer on the side of Mr. Astor, although the principal, if not the whole, forensic display, at least, was in the hands of the very eminent lawyers, on the one side or the other, whose connection with this case is historical.

Then, soon after the disasters of 1837, in which the downfall of the credit system of this country had induced a large series of litigations on the part of foreign bankers, and foreign merchants pursuing their debtors here, there came the celebrated case of Bell and Grant against Bruen, in the year 1843, resting upon the questions of commercial guaranty; and the case of McCalmont against Lawrence on the law of suretyships and commercial guaranty. A little later, in the year 1850, the well-known insurance case of Barnard against Adams, in the Supreme Court of the United States, tried first in the circuit here, involving the question of the contribution in general average, to make good the loss of a ship voluntarily stranded under peculiar circumstances of apparently hopeless peril—an interesting and novel question upon which Mr. Lord was successful in supporting his views. The case of Jasigi against Brown, a little later, in the year 1854, was a case of considerable magnitude, involving the question of accrediting, by letters of commendation or representation, parties who were involved afterward in debts for which suit was brought. The Methodist Church case followed—one of those notes in the prelude of the great

storm which finally ended in the armed revolt and in a threatened dissolution of the country; this great controversy arose on the partition of the Methodist Church between the North and South, and I remember the case as almost the only one which as an observer, an interested listener from beginning to end, I have been enabled to attend since I have been at the bar; a case discussed here on the one side by Mr. Choate, of Boston, and Mr. George Wood of New York, and on the other, by Mr. Lord, and Mr. Reverdy Johnson, of Baltimore; a case, the splendor of whose debate astonished as it delighted our bar, and in which Mr. Lord's peculiar traits and powers, contrasting so much as they did with the brilliancy in one way and another, or the solidity of these eminent lawyers, nevertheless left the impression upon the court and upon the hearers that Mr. Lord's mode and style of dealing with forensic questions within the region of practical and sensible estimate and decision was as marked, as useful, and as distinguished, as any of the more brilliant or more imposing forms of forensic power which his opponents or his associates presented. Then came the series of Bank tax cases, the prize causes in the courts of original jurisdiction, and finally the argument in the Supreme Court of the United States, of the principal and test-prize cause, that of the "Hiawatha," in which the doctrines of the war, as bearing upon public law, of prize, and of submission to the laws of blockade, growing out of the first emergency in which our Civil War had placed the government toward the revolted States, were the topics of discussion. In the case of the Savannah privateers, involving an interesting question of criminal law, in which these same questions came up, Mr. Lord appeared for the defendants.

Now, Mr. President, this very cursory statement, leading us, who know all about him, only to dwell for a moment upon the wide extent, the varied forms, weighty duties, and the constant occupations of Mr. Lord's professional life, shows

that, in view of fifty years of such professional distinction, we cannot but feel that the gap made in our body and in our community by his removal is a wide and deep one.

In regard to his personal life, Mr. Lord, in his domestic affairs, in his social relations, presents a career of prosperity and of happiness which, in the changeable nature of our society, is certainly quite agreeable. Losing one child out of eight, in mere infancy, I am told, all his other children have grown up to manhood and womanhood in this city, all worthy of their father's character and of his name, and all were suffered to stand by his bedside at his last moments. No disasters of any kind, no disappointments, no unsuccessful efforts in any direction of life, seem ever to have awaited upon Mr. Lord's career; and when we remember, as we cannot fail to do, that, with all this prosperity and all this distinction, he was as quiet and as simple, as honest and as straightforward, and as constantly laborious and faithful as if work was all that there was of life that was worthy to be done—worthy work, for worthy ends, and by worthy means—we cannot but confess that the life of our deceased friend and brother presents as agreeable a picture for us to look back upon as could have been enjoyed by him; one that we could wish to be filled up in some measure for our own lot, and one that in any estimate, although he never held judicial or official station, nor was honored by political distinctions, we must feel has been a life as worthy to be lived, as useful and as influential, as any of those lives which have been more elevated in the career of public influence, however distinguished and however useful they too may have been.

It happened to me, Mr. President (and for this reason, more than any other, am I permitted to make these remarks), to become acquainted with Mr. Lord, the first among the lawyers of New York that I ever knew. During my college residence at New Haven, I had become acquainted with his person, which had been pointed out to me in some of his



occasional visits to that city, the seat of his college education. Some circumstances of family connection led me afterward, when a student at Cambridge—upon the casual suggestion of a comrade there, that I should turn my attention to the City of New York rather than remain, as I had expected to do, in Boston—to think, as a possibility, that my acquaintance, or the means that I had to make an acquaintance with Mr. Lord, then eminent in his position at this bar, might give me an introduction to his care and attention, and might afford me opportunities of education under circumstances that required me to be very careful in regard to expense and risk in any step that I should take, which might lead me to venture to become an aspirant for the distinction and successes of the profession in this great city. I may, therefore, feel that Mr. Lord was really the reason, the occasion, the opportunity, the means, by which I was permitted to be introduced to any degree of professional labor and prosperity which may, in my own sense, or in that of anyone about me, have attended me. I remember very well the kindness with which he received me, and the willingness which he expressed to receive me into his office; and when, at the appointed time, the succeeding summer, that of 1839, I presented myself, he said—"Well, Mr. Evarts, you have come to commence your studies and be a lawyer in New York," and I replied doubtfully, perhaps as I supposed modestly, "I have come to try." "Well, sir," said he, "if you have only come to try, you had better go back; if you have come to stay, we shall be glad to receive you"; and when I amended my answer by the information he gave me, that it was possible for me to stay, that I had come to *be* a lawyer, he received me cordially; and from that time to the time of his death he has been my friend, my supporter, and my guide.

It has, of course, in the nearly thirty years of my residence as a student and as a lawyer in this city, come to me to be

more or less acquainted with, or more or less an observer of, not only the personal character, traits, and careers of the eminent lawyers, so many of whom have passed away, so many of whom are yet left, but also to have some general knowledge of the course of the profession, and of the business of the bar; and in looking back upon that thirty years, I cannot but think that Mr. Lord, then about forty-five years old, held relatively to the law business of the city, and relatively to the other lawyers who were his rivals, his competitors, his equals, a better position, in regard to his hold upon the business of the city, not only than any other lawyer at that time, but, I think, than any other lawyer that has followed him. Not but that there have been, perhaps, larger connections of employment since, more brilliant presentations of forensic and other professional success, but the city became so large that it was utterly impossible for any one lawyer, however great his power and his reputation, to occupy the position toward the community of clients and the general course of professional business later, which Mr. Lord occupied at that time.

During the two years that I was a student in his office, there being a considerable increase of law business from the necessary sequence of the great disasters of 1837, it seemed to me as if almost all the great commercial houses, as if almost all the old and the large property-holders of the city, as if almost all the foreign agents, as if almost all the casual litigants having causes of great magnitude, came to consult Mr. Lord. I know I saw then what I have not been in the habit of seeing in my own or any other office since—an habitual attendance every morning, as if upon a levee, of a very considerable number of clients awaiting his coming to the office, to take his opinion on matters of importance, or of more solemn consideration, and awaiting their turn to be received into his inner room. From the circumstances of the arrangement of the office, it was pretty full of students;

and I, being the last-comer, had the privilege of occupying the same room with himself, and, excepting often being required to remove during a confidential interview with other counsel, or between him and his clients, I enjoyed the advantages of seeing and noticing the everyday habits of intercourse, professional conduct, and professional demeanor, of this distinguished lawyer. Promptitude was the great trait of Mr. Lord in his personal dealings with his clients and with his causes. A most fortunate, a most wonderful capacity of economizing time, a ready control of his own attention to every piece of business as it came along, so that whatever his fresh and instant attention to it communicated was preserved and laid up in the first few hours or days of the introduction of the business in a permanent shape, so that when, after a long period of time, it came on for trial, or for argument, he did not need to go over again, with painful steps of repossession, the ground that he had once examined. His opinions, which were brought down morning after morning, and were generally not very long, but always very much to the point, were delivered to the students to copy, and then handed to the clients. And although there were not so many courts by far as there now are, yet he was sure to be occupied during the day in court either in argument or in trial, and occasionally was withdrawn to Albany, and, during the winter, also to the Supreme Court in Washington. I was able, therefore, Mr. President, to gain what was of incalculable service to me, or might have been if I had had the strength and patience and industry to get all the good out of it that I might—of incalculable importance to any young student, to any young and expectant lawyer—a knowledge by actual observation, how it was that great and numerous and constant affairs could be handled and disposed of satisfactorily, usefully, faithfully, successfully, triumphantly, by a lawyer in the very concourse of the courts, and of causes. He displayed great quickness of ap-

prehension, great firmness and intrepidity in the prosecution of the views that he had espoused, great confidence in them, and these were the prevalent traits of Mr. Lord's forensic conduct of business.

Now, Mr. President, I shall not trespass much longer upon your time, but in all these years of my observation of Mr. Lord, of my respect and affection for him, I can truly say that I have never known any particular conduct of his, professional or personal, nor any general habit or principle of life, professional or personal, that I could not honestly esteem as of the best example, and honestly commend to all who sought the best example. I do not seek to put a tint or color upon his life and conduct that is more than human; I do not say that there were not faults and blemishes in the casual intercourse of the bar, or of society, that in him, as in everyone else, may have excited some resentment; but I do mean to say that there was no purposed and deliberate act, there was no settled and adopted principle of conduct, which was not of the highest character and of the most important influence in the conduct of his affairs, and such as every member of the bar might well wish to have been an observer of.

Mr. President—Mr. Lord dealt with one subject, not always easy to be managed by prosperous members of any liberal profession, in a manner which it seemed to me was as unexceptionable, as high-minded, as any course that could be adopted, and I cannot but think that in the great crowd of business, and in the very large increase of professional emoluments which we now see about us, it may be worth while to refer to the fact of the moderation of Mr. Lord's professional charges. He never overlooked the fact that the profession of the law was not in, and of itself, the pursuit of gain. He never failed to recognize that the profession was a liberal one, and that its rewards were in the service of the public, in a general interest in the care of men's

affairs, and in the honor that attended the ability to be the advocate of justice and the defender of the wronged; and I think that throughout his whole life he very conscientiously and very thoroughly adhered to the rule and principle that the compensation of the lawyer should be proportioned to the service he performed in every case, and yet never upon any other standard than what would furnish a suitable support, according to the customs of society, and give an opportunity to provide against want in the possible misfortunes and vicissitudes of life. I think, Mr. President, that there has not always been an observance of this rule, and I think that we all feel, and believe, that that is the true rule of our profession, that we do not live to make money, and that all we can recognize in regard to making money is, that we make it that we may live. Our duties, our obligations, if we are fitly described as a liberal profession, do not admit us to regard the profits of our profession as the principal object, nor the amount to which they can be carried as a safe and just guide open to the lawyer in this regard. Mr. Lord always seemed to me in all his dealings with questions of expense, of money—not an easy question to manage in the affairs of life—to be governed by as sensible views as any man that I have ever known; never ostentatious, never profuse, yet always liberal, always generous, always honest in the externals of life, he seemed to me, in this matter of dealing, to present a spectacle to be imitated by all of us; and now, when the last few years have reminded us that his active and vigorous mind and frame were beginning to yield to the touch of time and to powers of decay, we have noticed how readily he accepted the conditions of withdrawing gradually from employment, and we have been glad to see how apparently he was enjoying the cheerfulness, the comfort, the full possession of his intellectual faculties, and the great enjoyments which his social and domestic happiness furnished so freely to him; and it is only within the last fort-

night, that we have felt that even this beautiful life, with all its strength and all its charms, when touched finally by the finger of decay, passes away like a garment fretted by the moth. But it is only in this natural decay that we know or admit this change. His example, his life, is not affected by any decay, nor fretted by any corrosion. It is complete, it is secure; it is the possession of us all; and mourned as he is by the profession of the country, by the community, by the public, who knew and honored and admired him, I may be permitted in my own personal attitude to him as my master and my guide and friend, both to feel and to say that personal and private grief justly attends my relation to his loss.

## EDWIN WALLACE STOUGHTON\*

### *Mr. Chairman and Brethren of the Bar:—*

It has happened to me, now many times, to participate in these meetings at which we are accustomed to pay honor to the memory of deceased companions, and not infrequently have I, for one reason and another, been named as one of the speakers on such occasions. But in no case has death taken from our bar one so near to me, in age, in association, in the daily habits and familiar feelings of our lives. Born in the same year, coming to the bar at the same time, employed in the same causes, neighbors in the city and in the country, the whole course of our lives seems to have been parallel, and their thread and color to have been woven as it were, into the same figure. It is, indeed, a sad and impressive incident to me that, returning to my accustomed employments at the bar, and my everyday intercourse with its members, from which I had anticipated nothing but pleasure, my first appearance in a court room should be upon so lamentable an occasion and in discharge of so sorrowful a duty.

Mr. Stoughton, like so many that have risen to the first eminence in our profession in England and here, struggled with difficult circumstances and narrow means in early life. Missing, from this cause, the advantages of a liberal education, he was entitled to the great praise of having, so to speak, by main strength gained full and permanent success in the profession, and acquired by assiduous labor, later in life, the culture which those more at ease in the season of

\* Mr. Stoughton died January 7, 1882. A meeting of the bar of the courts of the State of New York and of the United States for the second circuit was held in the United States Circuit court room on February 13, 1882. Judge Samuel Blatchford presided. Mr. William D. Shipman addressed the meeting in nominating Judge Blatchford as presiding officer, and appropriate resolutions were offered by Mr. Clarence A. Seward. The speakers who followed Mr. Evarts were Mr. Sidney Webster, Mr. Edwards Pierrepont, Mr. Charles A. Peabody, Mr. William Dorsheimer and at the close, Judge Blatchford.

youth imbibe as a part of the nurture and discipline of their growing years. If, then, Mr. Stoughton takes his place, in the strictest sense, in the honorable ranks of self-taught men, it must always be conceded that his discipline was thorough and his instruction ample.

My opportunities of measuring Mr. Stoughton's abilities and observing his progress at the bar were constant. Being always at the same stage of professional career, in its earlier period as well as in its later, we were naturally more often opposed than associated in our employments. The earliest case which I recall, of importance enough to be much remembered by either of us, in which we were both engaged, was the case of *Hoyt vs. Mackensie*, where I represented the plaintiff and Mr. Stoughton the defendant in an argument before Chancellor Walworth, at Albany, in 1848. The case was one of much legal interest in the question of property in familiar letters, but of greater public attention from the political and social relations of the correspondents whose private letters had been surreptitiously communicated to the public. The last occasion on which we appeared in the same cause was in the argument of the disputed title to the Presidency of the United States, before the august tribunal created by Congress for its hearing and decision, and in this cause we were associates.

Mr. Chairman, it may be well supposed that, in this span of thirty years of common forensic employment and experience, the materials for a correct judgment of Mr. Stoughton's distinctive traits and faculties would not be wanting to me. The great body of the natural endowments and acquired faculties which go to make up an eminent and prosperous lawyer are substantially the same, but they are differently blended, and take color and prominence in different ways, sometimes from diversities of external circumstances, sometimes from strong individual traits of character. We should all agree that all these elements of professional distinction



and success were possessed by Mr. Stoughton in a marked degree, and that energy, independence, and intrepidity enforced and directed their exercise and display. If, however, we may be permitted, in the open and earnest conflicts and comparisons which make up the daily life of the bar, to look about us and watch the special distinctions of one and another of our brethren—if we may, without the evil eye of envy or the forbidden taint of covetousness, applaud and admire, “desiring,” with Shakespeare, “this man’s art or that man’s scope,” I should signalize, as most conspicuous in Mr. Stoughton’s long and manifold service before our eyes, his absolute fidelity to the cause and interest committed to him, his absolute courage in its maintenance, and his persevering sense of responsibility that, to the very end, no detriment should come to his cause or to his client that he could by labor or vigilance avert.

Our profession, Mr. Chairman, has sometimes been criticized as assuming too much public interest in its members by these public notices of our bereavements, as if they were a public loss. It would be difficult to prove, so long as we think, with Mr. Burke, that “justice is the main policy of all human society,” that, in comparing the great functions of legislation, administrative magistracy, and the judicial establishment, the eminent lawyer and powerful advocate is a less considerable public person than an orator in the Senate or a political minister. But Mr. Stoughton’s abilities were shown, and his reputation gained, not exclusively in the practice of his profession or in the courts of law. Of late years, especially, he had taken a zealous and effective part in the political field, in the wise conferences of the canvass, and in the popular eloquence of the hustings. The party to which he belonged, and whose triumphs he had helped to secure, fully recognized its obligations to him, and in the line of public service which he preferred, a foreign mission of the highest rank was placed at his disposal by the

late President and accepted by him. What greater distinctions of a public character might have awaited him, had he not been thus struck down by the unrespecting hand of death, we can only conjecture.

No one, Mr. Chairman, who has known much of the bar of this city for the last thirty years, either as a member of it or of the great community, but feels a great loss to-day by the withdrawal from society of so imposing, so graceful and so gracious a figure as Mr. Stoughton. It was by his generous and splendid hospitality that we lawyers saw more of one another under the genial influences of mirth and wit, of kindly and hearty good-fellowship, than under any other roof or round any other board. It was by the same generous and splendid hospitality that we were brought most into the company of eminent members of the other learned professions, and with distinguished visitors from other cities or from foreign lands. This light in our society is put out forever, but its memory and example shall long survive to cheer and encourage every form of good companionship among us.

I cannot look about this room, Mr. Chairman, filled to its utmost capacity with lawyers, without feeling that you and I, and those of our age, Mr. Stoughton's early and life-long friends, no longer count for so many in the full ranks of the profession as we did. We are pushed on by the numbers behind us in the unbroken procession, but the crowd that once blocked our progress has vanished as we near the goal. In one and the same evening journal, on Friday, I read the death of the celebrated Massachusetts lawyer, Mr. Dana, my classmate at the law school, and intimate companion ever since; of Judge Putnam, of the Massachusetts bench, an excellent and upright judge, my classmate in college, always my constant friend; and of Mr. Stoughton, taken from my side. We may be sure that, when the leaves from the tree of life fall

thus thick about us, it is not a chance wind shaking the nearest bough, but the approach of that natural decay which is so soon to add our whole generation to the innumerable host of the past.

I must end as I began—with my personal lamentation at our common bereavement. Mr. Stoughton seems, as I look back, to have been a part of the daily habit and movement of my life, henceforth to be forever missed. In the courts, in public assemblies, in the street, in our homes and with our families, alike in the noise of the city and the quiet of the country, we were figures in a common scene, participants in a common society. At Windsor, an unfenced line divided our gardens, and his stately presence, whether it graced the lawn or cheered the drawing-room, was always welcome, nor will its memory and influence cease still to grace and cheer us as before. Ah! brothers and friends, only an unfenced line divides us from him now—a line not the less easily, the less surely, or the less quickly, passed than the footsteps that cross it point all one way.

## CHARLES O'CONOR\*

*Mr. President, Gentlemen of the Judiciary, and Brethren of the Bar:—*

No one could desire more than myself to participate in every due form of honor and of praise to our deceased brother, Mr. O'Connor, and when the committee thought that I might add something to what should be said by the speakers who were to precede me, I felt that many, perhaps all, of the topics would be adequately and completely occupied, and that I certainly could not expect to improve, and at my best could only hope to repeat them. But yet I find that one of those advantages which are so readily accorded by our brethren and are never refused, advancing years, has enabled me to speak, perhaps, with personal knowledge of a larger proportion of the span of his great professional career than those who have preceded me.

I came, sir, to this city from the law school in 1839, and had the great advantage of being received into the office of the eminent and excellent lawyer who then stood at the head of professional employments in this city—I mean Mr. Lord. Two very distinguished lawyers, older than he, Mr. Griffin and Mr. George Wood, both filled active employments and had lost none of the prestige and the power that belonged to them for many years. There were two other lawyers who were fully recognized as promising to become the leaders at our bar, and supplant, in due course, all the great lawyers who occupied the arena. These two lawyers

\* Mr. Charles O'Connor died May 12, 1884. A meeting of the bar of the New York State courts and of the United States courts for the second circuit was held in the General Term Court Room of the New York Supreme Court in New York City on May 23, 1884, at which the Hon. William C. Ruger, Chief Judge of the New York Court of Appeals presided. Mr. Clarence A. Seward offered appropriate resolutions. The speakers on this occasion were, in the order named, Mr. Charles A. Peabody, Mr. James C. Carter, Mr. Frederick R. Coudert and Mr. Evarts.

were of the same age, and combatants against one another, in all the causes that belonged to their age in the profession. I mean Mr. Cutting and Mr. O'Connor. And I know that no pang ever touched the heart of Mr. O'Connor more closely or more tenderly than the earlier departure of this great lawyer, his friend and his opponent. Gentlemen who were present when Mr. O'Connor gave utterance to the full outpouring of his heart on that commemorative occasion remember how he said, and how sincerely he was believed, when he said: "If that process spoken of in the medical profession by which the life of a man could be saved by the transfusion into his veins of the blood of another, at the cost of the other's life, could have saved Cutting, I would have made the sacrifice for him."

Admitted to the bar myself in 1841, these two leaders, who were at the same time interesting the attention of their seniors and greatly engaging the observation of the younger and growing members of the profession, stood at the age of thirty-seven years, and, thus, you will perceive, that though the earlier period of Mr. O'Connor's life had passed before I could observe or know of him, I do include from that date of his assured eminence in our profession—which never changed except to grow and advance step by step in his life—a personal witness of his employments and the multitude and dignity of his occupations, down to the end.

How I came to be personally acquainted with Mr. O'Connor, I scarcely recall. Probably, it was without formal introduction and by some kind notice on his part, in some litigation in which I had appeared as antagonist, or as a subordinate. From that time on until his death our associations were in great part professional. The occasions on which we met socially, from his somewhat reserved habits in the matter of society and social entertainments, and from my being so much younger, were comparatively infrequent. But I may

say that whenever we had occasion to meet as opponents, or, which was more rarely, as associates, in the great litigations in which he was constantly employed, there was in every respect kind acceptance on his part of the respect and regard which I always felt and exhibited towards him. I cannot detail the multitude of his engagements that attracted attention and that will make the record of his professional career. I cannot occupy even much attention with the considerable number of great cases in which I had the fortune to be employed, in opposition to him, and more rarely in association with him. But I think I can say with your entire concurrence, that no cause which he represented suffered in its defense or in its prosecution, in any of the qualities, mental, moral, or personal, that should be at the service of clients, that should be at the service of the administration of justice, and the maintenance of the law. Whenever he carried the day triumphantly he carried it by open and by manly strength, skill and courage, and whenever he was overborne in the contest—not often, to be sure, by personal triumph, but by the law and the decision—he was always ready and frank and generous in admitting that the strength and the skill of his opponents had gained the victory.

Mr. O'Connor, as a man, by the very constitution of his nature, formed very confident, very definite and very deep opinions on all the matters that make up our intercourse at the bar and in the community. He had opinions well marked of his friends and of those who were not his friends. He had very definite estimates and measures of the comparative power, learning, sincerity and value of his legal brethren. But I think I can say, in confirmation of what those before me have said, that he never took pleasure in giving expression to disparaging views, or to severe condemnation, and that he was always ready to make up, for his condemnation of a particular characteristic that he could

not approve, by assigning prominence to other traits that were meritorious.

Mr. O'Connor is often spoken of as having enjoyed no early advantages for a career in our profession. The son of an Irishman expatriated for his patriotism, himself at home a gentleman and a man of good estate, and overpowered by some disastrous reverse of fortune, Mr. O'Connor, as a boy, was subjected to the harshest experience of poverty. Well, let us admit that the child's privations and the child's griefs were hard to bear. But never let us forget, in the experience of our profession and of its triumphs, most worthy of being commemorated, the truth that the discipline of poverty and of necessity is the one best assurance for the making of a great lawyer and the gaining of the great fame and the great enjoyments accompanying success at the bar. Looking around our own bar; looking at the faces of the dead that we have known, running through the list of the British bar and of our whole country, we must all feel, as a general and principal truth, that a young man of the best natural talents and of the best aptitudes of skill, of eloquence, of grace, and charm, born in him, if when he leaves the lawyer's office, or the college, or the law school, with even enough wealth to keep him out of want, he starts just so far at a disadvantage in the race with others not thus situated. Mr. O'Connor, endowed by nature with these prodigious gifts of intellect, of insight, of discussion, of manifestation, of oratory, and with the added power of industry, that if it was not born in him, was burnt into him by ten years of poverty and struggle at our bar, had everything in his favor to make a great lawyer. Does this disparage his success? Does it make it any the less his own?

Now, in the earlier years of Mr. O'Connor's life, amid his struggles attending the first steps in which he was making his way to distinction, it is said that there was a good deal of sharpness, not to say bitterness, in the speech of the young

lawyer at that time, when emoluments and ease and wealth did not fall in the way of the profession as much as now. It must be remembered that when Mr. O'Connor was admitted to the bar there were only 166,000 people in this city of ours, and only between three and four thousand people in Brooklyn, and Mr. O'Connor has had the singular fortune of growing up in his professional life with the progress of the city—then thought to be great, but become so vastly greater—without drawback and without any limitation; greater in the magnitude of professional employments and in the presence of wealth and of clients than is proportionate even to the magnificent progress of the population. We have seen, therefore, Mr. O'Connor growing up from the young lawyer of twenty to the great lawyer of fifty, of sixty, of seventy, and of eighty years, and at the same time this city growing up from a small community into this great union of two great cities of two millions of people, second almost to London in the magnitude of civic population.

Now, Mr. O'Connor, filling out fourscore years of age, attracts attention to the notable fact that threescore years out of that eighty years was the period of his career as a lawyer, and that throughout all that sixty years he could scarcely be said to have diverged to any of the other provinces of public distinction or of public service. Whether or not, Mr. Chief Justice, when Mr. O'Connor had reached the fulness of his power, of his fame, of his success, there had been opened to him, as might have been anticipated, all the honors of judicial or professional and of political distinction, he would have chosen to accept them, we never can know. When the great change took place in 1860, by the transfer of the political power of this country to other hands than those which had seemed to have a hereditary and traditional possession of the government, Mr. O'Connor was fifty-six years of age, then in great fame, and unquestionably, we must suppose, that, if the party he adhered to had then been



in power, he might well have had open to him great professional places, the most prominent judicial preferment and distinction, and political employment. Up to that time he had marked out his own undeviating professional path, and he withheld himself from much participation in politics, though once or twice a candidate, I believe, for the suffrage of popular favor. But his own feelings, with reference to the changed condition of affairs, were of aversion to, and distrust of, the new political authorities that were put in charge of the national government, and in pursuance of this fidelity to himself and his views, he discarded from his scheme of life the whole subject of political or judicial preferment.

Mr. O'Connor was pre-eminently a man without vanity. He was, if we may use a coarser phrase, a man absolutely hostile to every form of humbug. In the profession, out of the profession, in life, among friends, in society at large, in all public views, he never tolerated for a moment, he never admitted as an element of his praise and approval of others, this taint of humbug, whenever it adhered to the character, or showed itself in the conduct.

Mr. O'Connor, as a lawyer, starting with the disadvantage of narrow circumstances, against which he had to strive, and enjoying at no time of his life the advantages of much education, was, in my judgment and to my perception, the most accomplished lawyer, in the learning of the profession, of our bar. Indeed, I cannot be mistaken in saying that he was entitled to pre-eminence in this province of learning among his contemporaries in this country, and among the most learned of the lawyers of any country, under our system of jurisprudence. He used this learning never as an element or an opportunity of display or parade, but only as it was incorporated into the power of his strong arm and his will, and as his championship called for the exercise of what belonged to him as a lawyer.

As Mr. O'Connor went on in advanced years, there were many things that occurred under his eye, in the progress of things in this great nation of ours, that he could not look upon in the same light or with the same hopes that others, differently situated or differently trained, regarded them. I not infrequently had an opportunity, introduced, I think, always by himself, of a good deal of conversation about speculative or general politics, not of any party nature, and he was always acute and always courageous and always confident in his opinions, showing the same traits that upon the exact and more importunate occasions of professional contest he was called upon to exhibit. Whether, remembering Mr. O'Connor's acuteness and energy, and his restlessness in regard to being unemployed, we may suppose that, in his retirement, he has prepared and left for us anything that will be useful to us in our profession, or in the larger subject of the welfare and the future of our country, I am not informed. But let us hope, now that his life has gone out still brilliant at the last expiration, it may be found that he has left for the instruction and welfare of those who survive him, and of those who are to come after us, something that shall add permanently to the honest, clear-sighted and fearless criticism upon American affairs that he was capable of.

And now, Mr. Chairman, we have gone far beyond our hours. We have not come here to bury Mr. O'Connor. We have attended with reverent brows at his obsequies, which the church of the old faith has observed with the solemn consolations which it bestows upon its devoted adherents. We are not here to praise him. He is praised by his own life, and that is known to all. But we have come to make up in some definite and permanent shape a due tribute to his worth, a statement of the feeling and the faith and the love that we felt for him and now offer to his memory. But we have come here for still another reason. We come in recognition of the truth, that it is in the career of great lawyers, in

their power in their life, that we as a profession make our impression on the time in which we live. Mr. O'Connor well believed that in the free institutions developed in our day, in Europe and here, the stress must finally come upon a well-equipped, courageous, and upright judiciary, and an intrepid and independent bar. Let us understand that whatever we, as individuals, may owe to our clients, to our families, to our associates, we owe to the law and the administration of justice, the final, the principal, the constant duty; and if we are remembered well hereafter, it will be mainly for our fidelity to this paramount obligation.

**MORRISON REMICK WAITE,\***  
**CHIEF JUSTICE OF THE UNITED STATES**

*Mr. Chairman:—*

My relations to this eminent man began, not in the public eye, nor under the influence of public fame. Fifty-five years ago we first came to know one another, and we have been under each other's observation, with unbroken friendship and unbroken respect, ever since.

Whatever part I might properly take in the public obsequies of the Chief Justice and the magistrate, perhaps, in any personal observance and homage, it would be more fitting for me with silent lips and downcast eyes to take a place among the mourners. But this should not be, and I may be permitted, as briefly as may be, to make some comment on that life passed under my eyes, from the beginning to its close, that no others can offer.

As we were freshmen together in college as far back as 1838, and through the four years of our association there as scholars of the same discipline, were friends in every relation, social, moral, intellectual, I should be able to add something to the events and the public traits in his life that the whole profession and the whole country have appreciated. Never rhetorical, and never ostentatious, he was from the beginning until his graduation a most intelligent, a most faithful, and a most successful student, having always the respect of all in these qualities, and not less in the sobriety of his conduct and dignity of his character. To his teachers, to his companions, to all who knew him in the career of the

\* Chief Justice Waite died, in Washington, March 23, 1888. Pursuant to a call, issued by a preliminary meeting, members of the bar of the Supreme Court met in the Supreme Court Room, March 31, 1888, to take appropriate action upon the death of the Chief Justice. Senator George F. Edmunds presided. Resolutions were offered by Mr. Garland, who was at the time Attorney General, and the meeting was addressed by Mr. William A. Maury, Mr. Samuel Shellabarger, Mr. Frank W. Hackett, Mr. John Randolph Tucker and Mr. Evarts.

student, when we graduated, whatever may have been the gay and perhaps too frivolous expectations of each of us, as to the qualities that would last in the wear and tear of life and meet its vicissitudes, Waite gave as good promises as any other of enduring to the end.

Perhaps nothing could be more diverse than Waite's own choice and movement in selecting the arena for professional life from my own. While I sought at once the busy, populous, and wealthy city which has grown up now to be, in a proper computation of its numbers, perhaps the second city in the world, Waite went out from his home into a remote corner of what was then a somewhat distant State, and in an undeveloped community. He pursued his steady course there; if not growing as fast in reputation as he would have done had he lived in a more noted community, yet growing in character ever faster—in that steadfast character that is followed by public confidence. And when, after the long interval between our graduation in 1837 and our new association in 1872, we were brought together in the public service, we were no strangers to the character and conduct and faculties either of us might hope to bring to that service. From that time until his death our intimacy has been as close and as constant as during the period of our boyhood to which I have adverted. The traits that have been so thoroughly and so accurately portrayed by our brethren who have addressed you, have been truthful and definite, interesting and useful, and it is impossible, in any estimate that I can make—it is impossible but that the essential traits that make up character and bring out conduct were most happily combined in the Chief Justice. Coming, later in life, to the larger associations of this Capitol and to the larger communities throughout our country to which he was thus introduced, he brought the warmer affection of closer neighborhood and simpler life to the gratification of our society, and quite as much enjoyment to us, in these traits

and aspects of him as he gained from the enjoyments into which, as we all know, he cheerfully entered. No doubt in a rapid glance one may seem to omit much that should be made prominent, but it seems to me, if I could name as the great result of his public career, as personal to himself, it would be that from the beginning to the end it was a life of sustained dignity, unobtrusive and unostentatious. When we come to the Chief Justiceship—a place so great, not in our imagination but in the sober measurement of that great dignity among men—who can say of one thus elevated more truly than of him, *magistratus ostendit virum*. The magistracy shows forth the man, not in the sense of the publicity and display which great office furnishes, but in the bringing out, to public notice and admiration, the adequate and noble qualities which, but for the magistracy, would have been hidden from observation.

While Chief Justice Waite possessed those personal traits of softness and tenderness of character and of heart to which my friend Mr. Hackett has so well adverted, and which all knew him to have from his youth, and throughout his professional career, and in his public positions and on this bench, all knew of him as well that when his conclusions of right and of duty were once formed he was steadfast and unmovable. I believe every eminent Associate on this great Court would say of him that, whatever mildness and courtesy and tenderness he might habitually show, when decisions had been reached, the judgment and the attitude of the Chief Justice were steadfast and unmovable. And now I can appeal to the great profession of the law in this country, that it is no common prosperity or fortune or power to have reached the incomparable eminence that our friend reached, and there shall have been conceded, in public estimation, a fitness on his part comporting with the great place to which he had been called. What other place is there in the frame of society and of government, of which we have

any history or any observation, that is equal to that of a tribunal that can pronounce irreversible decrees? No king, no magistrate, no parliament, no congress, on certain great topics of judicial control and decision, can overrule or reverse the decrees of this tribunal. Nothing short of a new consultation of the great nation that has grown up under this Constitution, by a change in its own sovereign decrees, can reverse these public judgments of this Court. When errors have been committed in France or England in their great tribunals, their chambers of government, their parliaments, can change the law; but in this great class of the powers and duties of this tribunal the power of the lawmakers, devolved by our Constitution upon the two houses of Congress, in all its plenitude, cannot change the constitutional decrees here promulgated.

The broken condition of social, of legal, of political, of public affairs, at the stage in the rearrangement of our affairs when Mr. Waite became Chief Justice, made the situation most difficult. Wise men might well look around for where those solid and circumspect traits of conduct and of character, weight and power, could be united for this situation; that could repair the wastes of war; that could reconstruct the symmetry and strength of judicial predominance over the passions and memories of war. In these new situations, the magistrate upon whom this great place was conferred has proved himself adequate in intellect, in integrity, and in firmness to maintain and administer the law of the land, and build up the strongholds of all-prevalent justice. At a time when so much detraction of all public men prevails—much of it flippant and frivolous, some of it, alas, malicious—what envious voice, what poisonous arrow has been aimed at the good name and fame of the Chief Justice? No; in that elevated moral height which he had gained “no fowler’s eye could mark his flight to do him harm.”

Mr. Chairman, I have told you the beginning of my friendship; I have just parted with him at his grave. Into that undiscovered country now traversed by his "printless feet" we cannot follow, except under that great illumination of faith which gives to us for that future, as for all our guidance in life, the substance of things hoped for and the evidence of things unseen.



## THOMAS A. HENDRICKS\*

### VICE-PRESIDENT OF THE UNITED STATES

When, Mr. President, in the arrangements by which the Senate should so properly offer the tribute of its respect and affection in memory of one whose loss they deplore, it was thought right to include myself among those who should participate in the presentation of the feelings of the Senate, it would seem, perhaps, that no other relations would have suggested the propriety of this selection except as an observer of the distinguished career of a member of an opposite party and a citizen of a distant State.

But it so happens that I had a very considerable acquaintance with Mr. Hendricks, dating to quite an early period in his public career. When in attendance upon the Supreme Court, many years ago, I first formed his personal acquaintance; and then, at an age when he was not far advanced beyond that of middle life, as it is construed, he was pointed out to me as a person of interest, and who should engage my attention, as one who, in the career upon which he had entered, and from the progress which he had made in it, was naturally and probably, a future candidate for, and successful aspirant to, the Presidency of the United States. However strange it seemed to me that so early in a man's career so great prognostics could be safely or wisely made of him, from that time onward there has never been an occasion in which I have been brought into relations with Mr. Hendricks that it did not recall to my mind that sentiment and that expectation respecting him.

\* Mr. Hendricks died in office, November 25, 1885. On January 26, 1886, the Senate devoted a portion of the session to proceedings commemorative of his life and services. The senators who addressed the Senate in eulogy of Mr. Hendricks were as follows: Mr. Voorhees of Indiana, Mr. Hampton of South Carolina, Mr. Sherman of Ohio, Mr. Saulsbury of Delaware, Mr. Evarts of New York, Mr. Ransom of North Carolina, Mr. Spooner of Wisconsin, and Mr. Harrison of Indiana.

About twenty years ago, too, it came in my way, in the practice of my profession, to represent great interests in an important lawsuit in the City of Cincinnati, in which was arrayed against us a numerous body of the important and powerful members of our profession in that great State, so full of excellent lawyers. The aid also of Governor Hendricks, from his neighboring State, was called in by our opponents. I had then an opportunity not only of forming myself an opinion of his abilities and his force as a lawyer, but also of perceiving the impression he made upon the public about him, on the profession of the two States, and on their judiciary. From all this a lawyer might fairly form during the period of the trial, which lasted a fortnight, an estimate, and a correct estimate, of the power and value of another. As I recall the matter, Mr. Hendricks was regarded upon the other side as the leader in that array, and upon our side was felt as the most formidable and the most competent contestant.

But on a later scene of much greater import I also had an opportunity to estimate the character, the eloquence, the intelligence, the courage of Mr. Hendricks, and the value of his constitutional opinions. I mean on the great occasion of the impeachment of the President. In this Chamber, as I recall the trial, the division between parties was such that thirty-five represented the full Senate of the Republicans and but twelve Democratic senators were present to counter-balance in any form or degree this superiority of numbers. During the three months of that great debate, and in the course of the delivery of opinions, so fully made up by the contributions from the senators on the Republican side and the few who could participate on the part of the Democratic party, it may be easily understood that Mr. Hendricks (who then, I think, it must be admitted, held the lead of that small band of Democrats who then occupied seats in the Senate) was relied on on that side of the Chamber for his

wisdom, for his courage, for his ability as a lawyer, for his learning and experience in constitutional matters of debate.

I think now, as I thought then, that among the eminent men who took part in preparation and delivery of opinions, and those who took part in the debates, not infrequent, of an interlocutory nature, no man appeared better in his composure of spirit, in his calmness of judgment, in the circumspect and careful deliberation with which, avoiding extreme extravagances, he drew the line which should mark out fidelity to the Constitution, as distinguished from addiction to the supremacy of party interests and party passions.

Of course, during that period the proprieties of my position did not permit personal intercourse with senators upon either side; but during the many days, the many hours of each day, that this great transaction passed before my eyes, and recalling them now, it seems to me that there was no position, there was no argument, there was no purpose and no plan in the conduct of that debate, as represented by Mr. Hendricks, that was not in accordance with the whole duty of a senator performing a grave part in one of the greatest political transactions that any free government has had or shall have occasion to witness.

Mr. President, it is just twenty-five years ago that, in the last days of this same month of January, a senator from Mississippi bade, as he expressed it in his own phrase, a final adieu to the Senate, in obedience to his obligations to his State. As we in memory recall the perilous experiments upon the Constitution, upon the government, upon the power of this nation, that were practiced by and during the Civil War, and as we now find that this Chamber is full—every State represented in its full competency under the Constitution, this alley dividing, in scarcely unequal strength, the two parties—as we witness the reciprocal respect and kindness between the members of the two great parties represented on this floor—we cannot but feel that

not from the foundation of this government to the present time, nor under the ancient governments which count in their parliamentary duration hundreds of years, will you find a nearer approach in personal kindness and mutual respect between opposite parties than now mark the sentiments and the conduct toward each other of these two political parties. Yet, as I have said, but twenty-five years have elapsed between that opening event that I have adverted to and this present scene of common respect over the bier of the deceased Vice-President.

Sir Robert Peel once said, on a fitting occasion, to Lord Brougham, that "the contact of party produces a warmth of feeling toward those who sit around us; but the eye is a cold and jealous scrutinizer of those who are opposite to us." Whatever distrust should qualify, therefore, on this side of the Senate, our estimate of the leader of an opposing party, conducting his career while the country was under the stress of its threatened division, and its restoration was attended by the aggravations and solitudes that marked its progress to our present firm security, I think I may be allowed to say that looking at those who are opposite to us—that looking at the whole matter and running over the principal occurrences and the principal relations of Mr. Hendricks to them—this Republican party would have at all times felt that he was fairly entitled from his own party—in their opinions, in their affections, in their support—to the highest places that their suffrages should be able to offer him.

Something has been said about his being a partisan. I know by no instruction of my observation, nor by anything that I can draw from history, any other mode of conducting the debates of a great and free people except by means of great and firm parties. I believe, therefore, that steadfast and intrepid adhesion to a party is a merit, and I believe that political contests fail much of their service to the coun-

try when steadfast and intrepid adherence to political leaders is neglected on the part of the mass of a party.

Whatever be the debates in human affairs that best illustrate the contests of party under a free government, whether they are best likened to the litigations of the profession before the courts or battles between combatants upon the scenes and perils of war, I believe that it is equally essential to the service in all these forms that there should be neither betrayal nor desertion on the one side, nor timidity or hesitation on the other part. Undoubtedly, irretrievably for the time, the issues involved may be lost where these disparaging elements of a manly contest shall intervene, but nevertheless such inconclusive and spurious determinations tend to inflame the unassuaged animosities and provoke a renewal of the old hostilities.

I may say then, Mr. President, that my estimate of the late Vice-President is that of an eminent lawyer. Certainly his eloquence was persuasive and effective. Certainly his method of forensic address was quite admirably free of all superfluity. If it be truly said, as I believe it is truly said, that the greatest trait in the greatest of orators, notwithstanding all the splendor of his eloquence, Demosthenes, was that, more than all other orators, he was distinguished by the fact of the absolute directness with which every movement in his conduct of the debate was governed, that no superfluous word was used, none taken for ornament but always for effect, we must, at least in our profession, consider these traits that I have ascribed to the forensic eloquence of Mr. Hendricks worthy of admiration.

As a statesman, if he has been more usually looked at in the aspect to which I have referred, as a great political leader, it will be found, I think, that he was always governed by inborn convictions, and that he was directed, in the particular situations, by inbred opinions. I do not find in his career any of that versatility of opinion for the nonce or of

alliance to this or that particular movement that was to affect for the present time only. He was always of that sentiment which he ascribed to the prevailing sentiment of the Democratic party, and if it might be unhappy for him, as it was unhappy for all of us, that there should have been such a severe and peremptory discrimination in the antagonisms between the two parties from the gravity and the stress of the affairs of the nation, nevertheless I take it it must be said that he is entitled to the credit of having been a consistent, an intelligent, a prudent, a patient, and a courageous statesman in the service of the Democratic party, which he had espoused and to which he unflinchingly adhered.

Mr. President, these ceremonies and these eulogies in the presence of the dead are never formal and never commonplace. However frequently brought to the notice of mortals, death is never formal and never commonplace. However men may lead their lives, in the marketplace, in the courts, in the Senate, at the head of armies, in the crowds of popular applause, a man must always die alone. Whether death shall approach us in the form of a sudden summons, a tragic fate, or, by slow progress, sensibly to ourselves, visibly to those around us, the eye shall grow dim and the natural force abate, death is a fearful visitor. Whether his intrusion overtakes one in the towers of kings or in the cabins of the poor, the supreme event, wherein this mortal puts on immortality, swallows up all incidents and circumstances as trivial and impertinent. From these contemplations, Mr. President, whether in the close chamber of the dying or on the wide scene of public bereavement and national lamentation, the wisest may learn new wisdom and the boldest feel the mastery of an invincible antagonist.

## II

### SPEECH AT THE "BRYANT FESTIVAL" AT THE CENTURY CLUB, NEW YORK, NOVEMBER 5, 1864

#### NOTE

On the approach of William Cullen Bryant's seventieth birthday, his fellow members of the Century Association, by spontaneous accord, determined to make the event an occasion of tribute to him and his genius. Accordingly the evening of November 5, 1864, was set apart for the festivity. A full and very interesting account of the proceedings was afterwards published by the Century Association. Mr. George Bancroft then president of the club presided and after his address of congratulation to Mr. Bryant and Mr. Bryant's reply, poems and letters were read from the most eminent men and women of letters in the country who had been invited to participate in the festivity, and speeches were made by Ralph Waldo Emerson and Richard H. Dana, Jr., among others. Oliver Wendell Holmes read a poem. At the very close of the evening Mr. Evarts made the speech that follows. An interesting feature of this speech, which was wholly impromptu, is that the material for it was gathered from the topics touched upon by the preceding speakers of the evening as he listened to them and cunningly wrought into this production of playful and sparkling wit.

*Mr. President, Ladies and Gentlemen:—*

I do not know what right I have to speak, or what claim to be heard, on this occasion of our festive homage to the genius and renown of Mr. Bryant, unless simply as a member of the community upon whom, by his residence among them, he has shed so much lustre.

Yet, sir, it is very fit that the public and learned professions should join with the poets, and scholars, and artists, who have shown themselves with so noble and brilliant a presence here to-night, in this graceful and truthful testi-

mony that the poet, more fortunate than the prophet to whom, in some sort, he has succeeded, is *not* without honor in his own country. For what preacher is there among us but will readily admit that, in the larger phrase and function of *teacher*, Mr. Bryant, in his poems and in the daily instructions of his press, has been a faithful and constant help and support to the sacred office in every lesson of worthy life and of personal and social duty. And what lawyer will gain-say that in his noblest name of *Advocate*, the friend whom we honor to-night, has been by his side, battling for truth and justice and common right in every generous cause in the wide forum of public opinion, that tribunal of last resort in a free and enlightened country.

Much has been said, sir, of Mr. Bryant's love of nature and of his love of art, and they have been insisted upon, with much force and beauty, as principal traits of his character and of his poems. So far, if we may trust Mr. Emerson's vivid portraiture, did the passionate love of nature carry Mr. Bryant, that we owe to his great example a practice which has grown to be an omnipresent source of displeasure and annoyance to the enthusiasts who traverse our wide country in search of the picturesque, to find in every nook and corner the emblazoned name and fame of every quack and mountebank of high or low degree! For Mr. Emerson tells us, Mr. Bryant was the first to write his name upon the rocks and the mountains, and by the side of the rivers and the waterfalls, thus spreading his renown and drawing tribute from all nature. Alas! to what base perversions may not a bright example come.

But, Mr. President, on Mr. Bryant's love of art I have something more, and something more serious to say—Mr. Bryant was driven to be a poet by no necessity. He had no such excuse. He was bred and trained to an honorable, useful, and unselfish profession. I mean, of course, the profession of the law, for I may safely appeal to the candid



judgment, I will not say of this audience simply, but of the public at large, to bear me out in saying that, if there be any calling or employment whose followers exhibit in their whole lives, in their daily walk and conversation, a uniform tenor of disinterested, uncalculating, self-denying, self-sacrificing devotion to the good of others, without the remotest notion of fee or reward to themselves, it is the profession of the law. Now, sir, what might not Mr. Bryant have done for the world, with his pre-eminent and enthusiastic love of *Art*, had he faithfully adhered to the profession of the law, instead of waywardly seeking his own sweet will with the muses? Where and how could his love of *Art*, however profuse and exuberant, have flowed out into more various or wider channels of practical influence, than in the ample scope for invention, illusion, false coloring, and deception, offered in a prosperous career in the law? We are told, indeed, that as it was, he aided in founding a new academy of *Design*. Pretty successfully, too, Mr. President, if we may judge of the proficiency of the academicians by the exhibition we have had from them here to-night. Certainly it is a *chef d'oeuvre* of design worthy of a whole academy, to charm your guest, and this company, into an admiration of the varied beauty and splendor of the numerous pictures which, at so costly toil of genius, they had made into a gift for this occasion, and yet, all that our eyes have seen is a leathern portfolio, closely locked, and for the rest, we have heard an artistic story that the key is accidentally lost, and an ingenuous regret that the sketches are *unfinished*! That is very well in a small way. But, think of Mr. Bryant, in his love of art, as the founder of a new school of design, in the profession of the law; a new school of scheme, contrivance, and chicanery; of surprise, simulation, and subterfuge! Who will begrudge a tear for this glory lost to Mr. Bryant, to the profession, and to the world, when he was seduced from his early love of the law?

Mr. President, our profession has now borne, for more than a century, the reproach of having stolen from Apollo one of his golden-haired children and changed him into a dusty-wigged priest of Themis;—Pope's lament,

How sweet an Ovid was in Murray lost,  
commemorates the wrong. Thank Heaven! that account at last is settled. If we took from the muses young Murray, and made him Chief Justice of England, they have robbed us of the youthful Bryant and made him the Chief Poet of America.

How keen a lawyer was in Bryant lost.

### III

## REMARKS ON THE JUDICIAL TENURE IN THE NEW YORK CONSTITUTIONAL CONVENTION 1867

### NOTE

Mr. Evarts sat as a delegate in the New York State Constitutional Convention of 1867 and served as a member of the Committee on the Judiciary.

The report of the Judiciary Committee had fixed the judicial tenure as "during good behavior, until the age of seventy years."

The section of the Judiciary Committee's report, establishing the Court of Appeals, being under consideration in committee of the whole, an amendment was offered substituting for this judicial tenure a fixed term of fourteen years, with a provision against re-election.

Upon this question, thus presented, Mr. Evarts spoke as follows:

### REMARKS

*Mr. Chairman:—*

I feel somewhat indisposed to trouble the committee with any views upon this question at this time, following, as I shall, upon the same side which has been espoused and so ably presented by my friend, now on my left (Mr. Daly), and if it is supposed to support, in committee, the substitute as against the report of the majority of the Judiciary Committee, I would prefer, that before the close of the debate in behalf of that report, I might have the opportunity of listening to the views of gentlemen upon the other side; but if there is no gentleman present who proposes to address the committee in support of the principle of a fixed term of office, in opposition to a tenure of office during good behavior until the age of seventy years, I will proceed to address the committee.

I regret exceedingly that it has been my misfortune, and now is my disadvantage, in this debate, to have been absent during the very full, very deliberate, very good tempered, and, I might almost say, very complete discussion of this subject that has taken place during the last fortnight. Circumstances, which, however much I may regret them, were yet entirely beyond my control, have kept me from attendance upon the sessions of this body.

Now, Mr. Chairman, we may, at least, be willing to take this starting-point for the present discussion, as having been prepared for us by the previous debate, in which there has been a great concurrence, even of those holding, on the main issue, opposing opinions and views, upon some fundamental considerations which are to control this subject. The proposition of the committee of which I was a member, and in which I joined, is that the tenure of judicial office in this State, shall be established upon the principle of good behavior during what may be expected to be the period of judicial usefulness in respect to age and faculties. By fixing the age of seventy years as the period of judicial life, we avoid at once some difficulties which have been felt, and others which have been imagined, as resulting from the prolongation of the term of office beyond the continuance of the powers of mind and body necessary for the performance of its duties. Establishing that as the term of judicial life, we then give to the incumbent the security, and to the public the advantage, of the continuance in office of a judge during that period.

Mr. Chairman, I am ready to admit that the substitute proposed for the section reported by the Judiciary Committee presents, in as useful, in as sensible, in as acceptable a form as is possible, the counter proposition of a limited term. Its duration of fourteen years is adequate to meet the fair presumption and calculation of a good amount of judicial service, from a person who is competent when he is

elected. The condition that the judge is to be ineligible is contained in the statement of the proposition as furnished me by the clerk. If I understand my friend Judge Comstock, he has now proposed an amendment which introduces that feature; am I right or wrong?

THE CHAIRMAN: The principle of ineligibility is contained equally in both the propositions which are before the committee.

MR. EVARTS: Very well. I say then, that the substitute states as clearly, as usefully to the public service, as acceptably to those who, with myself, hold the opinion that the tenure during good behavior is the best tenure, this counter proposition of a limited term, as any form in which it can be put. The novelty, too, of giving one source of authority to the Chief Justice, to wit, appointment, and another to the junior justices, election, I have no particular objection to. The reasons offered in its support, and for the discrimination in the source of authority, do not strike me as very obvious, but I am satisfied to accept it as a modification, qualification, or compromise, if you choose so to call it, between the two sources of selection. I believe that the debate, as hitherto conducted, shows a remarkable unanimity of opinion as to what the public interests require from the judiciary, in its establishment and constitution. I believe that if in the Constitution of 1846, any contrary opinions or theories found expression, the experience of the State, as represented in the aggregate opinion of this commission for the revision of the Constitution, has shown that they were errors that had been exploded in the experience of other countries, in other times, and which were then again brought forward only to meet the condemnation which they have received in these twenty years of the life of this State, and of the members of this convention. These fundamental principles of which I have spoken, are demanded, needful,

indispensable, for the constitution of the judicial establishment in every community that professes to be governed by law and justice, and not by power and caprice—for the judiciary is the representative of the *justice* of the State, and not of its *power*, in any form or under any representation. The judge is not to declare the will of the sovereignty, whether that sovereignty reside in a crowned king, in an aristocracy, or in the unnumbered and unnamed mass of the people. The judiciary is the representative of the justice of the State; and justice is of universal import, of universal necessity, under whatever form of government. Mr. Burke has wisely said justice is “the main policy of all human society.” It is no more and no less the policy of equal society and of free government, than it should be of any other form of government; and every form of government and every frame of society that does not maintain justice, in truth, in fact, for the whole community, in that respect fails of the main object of human society, and receives its own condemnation in this, its failure to do justice. The next condition of judicial service in its true sense for any people, is that the judges are to declare the law, and not impose it. They are not to represent the law-enacting power, they are not to take the place of the legislative power, whether their authority has its source in democratic choice or in the selection of a privileged class. It is the law of the land that they are to declare; not the will of any power in the land; and it is declaration, and not an enactment of law, that is looked for from them.

Now, can anyone give any reason why, in a free government, in an equal condition of society, under the control of the ideas by which the people in this State and in this country are held together in their political and social ties, these considerations are less important, of less practical, pressing and constant value, than under any form of government or under any condition of society elsewhere, in which they have

been valued and maintained, or in which they have been lost sight of, and suffering has followed from their desertion? I think not. Nor has the debate, in the discrimination it has presented, attempted to undervalue the importance of these principles or the necessity of their observance in the conduct of this convention, and of the people, acting upon our representation, in the establishment of their judiciary. This being so, what are the conditions to which we need look when we come to devolve the discharge of this high duty, this representation, this declaration, this enforcement of the "right reason of the State," in the administration of the law of the land, upon judges to be taken from the community and clothed with this great power? They will be men like ourselves. Although the sentiment of justice is implanted in the nature of man, as the best gift of God, for the good government of the world, nevertheless the administration of justice is allotted to human means, to human agents. Our judges are to be taken from the community, and in choosing them there are two main considerations: first, how shall they best be selected; and second, how, having been thus well selected, they shall best be preserved, built up, fortified, ennobled, in their sentiments, in their character, in their repute and in their authority, before the eyes and in the opinions of the community, in the administration of whose justice they are to preside. Taking them as men, we are yet to endeavor to protect and fortify them as much as possible against the weakness of human nature, against its faults, against its follies. What is low in them, we are to endeavor "to raise and support"; what is strong in them, what is virtuous in them, what is noble in them, we are to cherish, defend and preserve. These are really the considerations upon which a wise people is to dwell in determining the judicial establishment that is most favorable for the maintenance and the practice of the judicial function.

The nation from which we derive our origin, our laws, our customs, our habits, our language, has tried to put the judges, and we have, confessedly tried to put the judges, upon a certain footing of superiority to the rest of the community. I do not mean in emoluments or titles, nor in personal distinctions at all; I mean in the constitution of the office and wholly for its sake. And the first great distinction of which, however familiar, we ought not to lose sight, because it is essential and fundamental, is that the judge is exempt from accountability for his judicial action. I mean personal accountability to members of the community who are affected by that action. His conduct and character are supervised, and he is corrected or removed, only upon a public prosecution. No action lies against him for anything that he does in the judicial office. Everybody else in the community is subject to be called upon to give redress for any injury that he inflicts upon any other member of the community, however high the station of the offender, or great his power. But the judge, by virtue of his office, is exempt from all accountability to his fellow-men, in their individual relations toward him, for anything that he does in the judicial office. The administration of justice comes finally to be a question of trust reposed in the judges, and the question, *quis judicet judices?* no community has ever been able to answer sensibly or usefully, otherwise than that God, the Judge of all, shall judge the judges at last, and that in the community where they administer justice, only the sovereign power, by the public procedure of impeachment shall correct their malfeasance in office. The next consideration—taught by the experience of the results of the contrary course, so wisely and so usefully explored and illustrated to us by Judge Daly, is, that the judge shall hold his office during the pleasure of no representative of power. *Durante bene placito* is exploded from our system.



Now, nobody questions the truth, the practical value, of these principles, in their naked statement, or in the usefulness of the experience that confirms them: yet in the Constitution of 1846, they were both almost entirely ignored by the adoption of the plan of electing the judges for short terms of office. For, in the principle of short terms and recurring elections is included both the element of accountability for judicial action to all persons who have taken offence at judicial action, and the element of holding during pleasure. A judge is held accountable when election comes around for the judgments he has made in this or that case, in reference to this or that question, in regard to this or that interest. All the while then, that he occupies the bench, he has before his mind, pressed upon him, by the weakness, if you will, of human nature which is common to us all, that there is to be accountability, not to the public through impeachment, but to private resentment and private retaliation for all the misfortunes, all the faults, and all the errors of his judicial course, at the mere will of the suitors and of their lawyers, who may have suffered wrong, as they think, by his judgments. So, too, from short terms and recurring elections, you have lurking in the system this most pernicious vice of holding during pleasure. What great difference would it have made in the judicial office in England, if the commissions from the crown had run "*to hold for eight years, renewable at the royal pleasure*"? Is not subservience to the royal pleasure for a renewal of the term but another form of dependence upon the royal favor for the continuance of the judicial term? True, it is eight years. But does eight years of the enjoyment of the dignity and emoluments of office make them less dear? True, the royal pleasure of removal or renewal is only to be exercised at fixed periods, but the royal memory of offences in the judge will last as long as the judge's official term, and pursue him with resentment at its close. In the working of our system we have found

this to be the case. This our experience shows. To take but one instance: When Chief Justice Bosworth made certain decisions against a great political character, that great political character's memory lasted till the recurring election brought round the nomination in his own party. Chief Justice Bosworth was succeeded by Judge McCunn, because such was the royal pleasure of that political character. And this within the same political party, where partisan considerations were not involved. I do not exaggerate. I submit to the good sense of this committee, that short terms and renewable judicial authority represent, under the form of an election, the intolerable vices both of accountability and retaliation for judicial action, and of holding during pleasure, because the office is renewable at pleasure.

Mr. Chairman, this amendment itself recognizes both of these conditions, and seeks to avoid, and does, in terms avoid, in great part, these faults and vices of short terms and renewable elections. Between the report of the Judiciary Committee and the substitute which is proposed in its place, there is entire concurrence in many particulars; that seventy years shall be the term of natural life within which judicial functions may be usefully exercised, and not beyond; that the judicial tenure shall be independent in this sense, that there shall be no accountability in any form, except by impeachment and judicial action; and that there should be no possible dread or no possible inducement laid upon the judge's mind in connection with the prolongation of his judicial tenure; that the pleasure of the community in the renewal of his term shall have no operation and effect such as I have described to be consequent upon holding office during pleasure; in these points the two plans concur. We are really narrowed down, by the recognition of these great principles, this separation, this distinction between judicial office and political office, being fairly recognized; we are really brought down, I say, to this great practical considera-

tion, and this alone; whether the tenure of the judges, for the period of their active life, or whether the fixed term, without the element of the uncertainty of life, and without the opportunity for the prolongation of judicial service for the whole period of their active usefulness, will give us the best judges.

Mr. Chairman, if there be anything that is fundamental, and anything that is worth preserving in our political system, it is the principle that public office is for the public service, and not for the private advantage and possession of the incumbent. I believe that no people have ever departed more widely from this fundamental theory in the practice of their politics, than we have. I believe that the number of people who have been, and are in office, because it was and is convenient for them to be there, is greater in this country than under any other constitutional government in the world. I believe that the calculations and plans for according this or that place to this or that man, turn more upon the reward and the advantage which it will be to him, rather than upon considerations of the public service, more openly and generally here than under any other government which professes to consult the interests of the people. I think I see unmistakable signs of the public will showing itself by insisting upon a change in the policy of conferring office in the future. We agree then, that in filling the judicial office, of which I am now speaking, the whole question should be: which of these two methods, of a tenure during good behavior, taking the judge at any probable age in his natural life, as the people shall see fit, will give us the best judges; first, in the original selection, and second, in preserving them in their proper character and proper conduct during their continuance in office. I confess that I have a very clear and a very thorough and a very earnest conviction that the experience both of England and of this country, this country in the past, and this State in the past, shows that courts

built upon the plan of a judicial tenure during good behavior, up to a period of age designated, give the best judges. I believe in practical forecast; there is no better guide than experience; and the experience of nations like our own, the experience of States like our own, the experience of our own nation, the experience of our own State, if we can recur to it, shows the best guides that we can follow.

What is the main thing, supposing other things to be equal, in the demand of the public upon the services of a candidate for judicial office? He is to be taken of course from the bar; he is to have ability; he is to have learning; he is to have integrity; he is to have industry; he is to have a good character in the minor morals of life. He is to have every quality of mind and heart, and every advantage of health and strength that the best condition of the profession can present. And let me tell you that the statement of these qualifications describes a man who, in the legal profession has, in the estimate of the community, before him a career of the highest distinction and of most ample emolument. If the State is to claim the man with these qualifications, arrived in our profession at the age of forty or forty-five years (later than which in life I cannot think it for the public interest, as a rule, that we should seek for judges), if the State is to enter the ranks of our profession and take this man for the public service in the office of Justice or Chief Justice, it claims a man who, in the prospect of his life as it opens before him, holds "length of days in his right hand, and in his left hand riches and honor." And he will not take the station, however genuine his devotion to the public service, at the sacrifice of so large private interests. I do not mean interest in its most sordid sense, in the sense of the accumulation and the enjoyment of wealth, as a personal gratification. I mean the sacrifice of progressive advance in position, in influence, in usefulness, and in the promotion of the prosperity and happiness of his family, of his children, his

grandchildren, objects which make up the impulsive motives of the whole mass of American society, that have produced the prodigious achievements of the past, and promise a still more magnificent future. Sir, I say that the State must make its best offer to a man of this intelligence, of this character, of this reputation, and of these prospects. I do not mean that the State should offer him emoluments equal to what his profession will give; I do not mean that she should offer him the gratifications of political ambition, and the *éclat* that public oratory in the forum and at the hustings give to the legal profession. These he must surrender. But she must offer him a career commensurate with the talents, and the character, and the duty that belong to him as a man. She shall not offer him a broken life; she shall not require him to exchange for the public service, for half of his life, a personal career which his talents and his character assure him for his whole life. Now, what do you propose to such a man by your term of fourteen years (which is as long, I think, as a fixed term should be), with a condition against re-election, which, I insist, is necessary to preserve independence? You say to him, take this judicial office for this fixed period, surrender your future in the sense in which I have presented it, and on leaving the judicial office look for something else to do, find new employments, or be content to "lag superfluous on the stage" of human action. This, the State, if it be wise, will never do. This, the State, if it be just, will never attempt. This, the State, if it be honest, will spurn in the treaty that it makes with its distinguished citizens for public service.

Why, Mr. Chairman, what can you say to one who is to become a Chief Justice Parsons or a Chief Justice Shaw, or a Chief Justice Spencer, or a Chancellor Kent, or a Chief Justice Marshall? What can you say to him if you choose to approach him? He is to have at the bar an honorable and useful career *for life*, with just attention to his own rights

and those of his family; with just obligations to his country; with just obligations to his God. You offer him *half* a life of judicial service in exchange for a whole life of professional duty and service to the community. For we lawyers, not less than judges, are sworn in our duty to subserve the interests of the State; and a good, and an able lawyer, I think, may claim for the exercise of his profession the honor of advancing the glory of the State, protecting the interests of the community, and serving the public good. I say, then, that to begin with, you offer terms which the State has no right to expect will be accepted. What, then, are you to do? Will you postpone your proposition till he has reached an age when, at fifty-six, he can take your fourteen years' tenure and expect to serve out his full life of activity and usefulness? The question is for the public, as to the best age for the public service at which you are to take a lawyer and make a judge of him, consecrate him, sacrifice him, to some extent, for the public service. Mr. Chairman, it does not make any answer to the principles upon which I insist as governing human conduct, that experience shows the average of judicial life to be about fourteen years. The lawyer does not compute his life by the Northampton table, and has no honorable mode of ending it if nature should chance to prolong his days beyond their average. He calculates not to live out half his days, but the whole of them. He rejects the proposition, calculating in his own favor that his life is sure. One thing he knows is sure—that every dollar of his compensation being requisite to support him from day to day, so long as he remains on the bench, when he leaves it he must go back to the bar and establish new relations for the future support of himself and his family. Nor, by this condition against re-election do you fully meet the requirements of independence which I have insisted on, if the judge is dismissed from the bench in the fullness of life and activity. Although he cannot be re-elected as a

judge, he will still propose to himself a future of either public or private advancement. He can be governor, he can be senator, he can hope, as a lawyer, to acquire a practice at the bar or become a standing referee. You will bring him finally to the condition of the steward who has to lose his place and must make friends to himself of the mammon of unrighteousness, that he may be received into men's houses when he leaves the public service. I do not, by these suggestions, make light of this subject. I am showing you that, by a less durable tenure than for good behavior, without any just compensation for what is sacrificed, you lose the great part of the essential ideas of commanding the best men and at the best age, for the public service. I am showing you that you lose all that makes up the difference between a judge standing above all embarrassments, and a judge who is left undefended by your institutions, against the operations of the ordinary influences that betray the frailty of our human nature.

Mr. Chairman, there is one further consideration. I believe any one who supposes that the people of this State do not expect from this convention a very thorough and substantial reinstatement of the judiciary, both in the tenure of the judges, and in their repute with the people, is mistaken. Nothing will disappoint the people of this State so much as that we should adjourn, offering them a judicial arrangement which shows only circumstantial changes in the working system, without probing and correcting the real defects in the present judiciary, which cause such serious concern. They wish to see the judiciary as it stood before them in the past, clothed with all the majesty of justice, and endued with all the strength that it is in the power of men to place about those whom they desire to honor, and whom they are willing to intrust with final authority. This supremacy, this authority that I desire, is not personal. It is all official. It is to help the judge's office, not to aggrandize the judge in

his person, that I plead. It is to make the best and the most of what, after all, are the imperfect materials of our common nature with which we have to deal. I wish to see it impressed upon the mind of the bar, I wish the bar to understand, that the election of a judge to a seat on the bench, is not only for the life of the judge, but it is for the lives of his contemporaries at the bar. I wish them to feel that they are not at liberty to plan for temporary occupancies of the bench, reserving for themselves the future chance when they become ripe for it. I wish them to know that for their lifetime, as well as for that of successive aspirants, this question is to be settled, and if they desire to be judges they must be candidates upon fair terms with the public, and at times when the office demands them. Let them know and feel, when they practice before that judge they have chosen, that they have, once for all, declined to be competitors in the public esteem for the place, and have preferred to fill out their own career at the bar. Let us have the reflex influence of an independent judiciary upon an independent bar. Let us work together. Let us magnify the judicial office for the public good. Let us be servants of the Court as we are servants of the law, but only in that sense. Let us have no motives for drawing comparisons between the bench and the bar, preparing for future candidacy, for our own interests. Let us see to it that in the administration of justice, private interests and by-ends, and personal objects, are excluded. Let us all know and understand, when a vacancy on the bench occurs, that it is a great matter who shall be judge. Let the power, governor or the people, which fills the place, understand that it is for a durable tenure, and that a whole generation is to sit under the shade of that authority which is raised over them. If there be any influence that is worse than another in this constant shifting of authority, it is this feeling that it is of no great consequence at any time what is done by anybody in regard



to any office, because it is not to last for long, and there will be an opportunity to correct the error, if error it shall prove. This insidious argument against a durable tenure of office, that if you get a bad judge you can get rid of him, tends always to getting men not on the highest scale in the public service, because you can get rid of them, somebody else, fitter than they, all the while planning, perhaps, to take their place at some period suitable to his private affairs.

I regret, Mr. Chairman, that thus, without premeditation and without preparation, I have been drawn into this debate on this subject, of all, to which our attention has been given, the most interesting and important. But I most sincerely believe that although this proposed substitute for the section reported by the Judiciary Committee contains, as I freely concede, a great many elements of usefulness (really, as I think, conceding the *principle* that the tenure of the judiciary should be for good behavior up to the age of seventy years), yet it falls short of a practical, useful adaptation and application of the true principles of the judicial tenure. I implore, then, this committee to hesitate long before they deprive this plan of the Judiciary Committee of its true vital force. It is not enough, Mr. Chairman, that the judges should themselves have the character and maintain the conduct that we all agree is desirable. A great part of the usefulness of the judiciary depends upon the repute in which it is held; and as has been indicated by my friend, Judge Daly, in answering Judge Graves's questions, whether *one* judge is open to animadversions of the kind that have been made with reference to some portion of our judiciary, in public estimation it degrades the whole bench.

MR. SCHUMAKER: Does the gentleman refer to the article in the "North American Review"?

MR. EVARTS: It has been referred to in the debate.

MR. SCHUMAKER: Does the gentleman not know that one judge who is a member of this convention is referred to in

that article? That in speaking of the judges of the Supreme Court, the Superior Court and the Marine Court, this anonymous article refers to a judge sitting in this convention?

MR. EVARTS: I do not know that it does.

MR. SCHUMAKER: Has the gentleman read the article?

MR. EVARTS: I have.

MR. SCHUMAKER: I say it does. It refers to one judge in this convention.

MR. EVARTS: I do not perceive how that affects my argument.

MR. SCHUMAKER: The gentleman referred to *one* judge, or said one judge was referred to in the City of New York.

MR. EVARTS: I did not mean any particular judge. I meant numerically, one judge in the judicial corps. I have used no language, and desire to use none, making any reference to persons. I have no occasion to do so. It is never my habit and never my purpose. I speak, and the honorable member will give me credit for meaning what I say—I speak of one judge numerically, out of the mass of judges. My argument is simply this, that, as the future usefulness of the judiciary rests upon two considerations, first, the fitness and character and conduct of the incumbents themselves; secondly, the reputation in which they are held by the community, that the infection of the bench by one unworthy member, operates to the depreciation in public esteem, of the whole bench. Probably the gentleman will agree with me in that respect, as a naked proposition, which is all that I intended. Now, why is it that whatever we may think—and I shall have a word to say on the subject—of the character and conduct of the judiciary of this State, under the present system—why is it that we must all agree that in the readiness of the public to credit aspersions against them, in their moral power with the public, in the arena of public opinion, there has been so great a falling off

in the position of the bench? Simply because the public, the thinking public, those who make up public opinion, exercise their own judgment upon the subject, and they really condemn the system of recurring elections and popular choice. They say that judges whose re-election is a recurring subject of interest with them, and with the community, cannot be so independent as judges holding by a better tenure. When particular facts, particular instances are insisted upon in public accusation, the community is ready to generalize their condemnation without proof and without inquiry. The system is denied that public confidence which, in an intelligent and instructed people like our own, is the breath of life of every institution. And now let me say, in conclusion, what I am glad to have an opportunity of saying in public, that the habitual respect for the judiciary, which I have always held, and I believe have always manifested, in the presence of all courts and out of them, has made me feel that we, the people at large, were accountable more than the judges could possibly be accused of being, for the falling off of judicial credit and influence. It is we, the people, that hesitate to clothe our judges with the ordinary conditions and guaranties in men's esteem, of their independence. I put a high estimate on their ability. I know them to be laborious, and they perform their public duties in a manner most highly creditable to them personally. I wonder how they can do it. Their labors are immense; they are constant. Their emoluments are small. Their tenure is uncertain. We may be sure, then, that we have abundant materials for securing a judiciary up to the standard of the State's requirements and its ancient fame. We have the means of giving it that authority and influence, that favor and esteem in public opinion, that will maintain the judicial function at its old standard. We owe it to the judges, to ourselves, to the State, that we should do so, and we shall suffer if we do not.

Upon the following day, the same subject being under consideration in the committee of the whole, an amendment was offered striking out from the tenure the provision of "ineligibility for a second term."

Upon this question Mr. Evarts spoke as follows:

*Mr. Chairman:—*

We are now brought face to face with one of the elements which has been insisted upon in this debate, and in all other important and responsible discussions, in this and other countries, respecting the constitution of the judiciary, its stability and its independence. I will not repeat any of the reasons that I gave yesterday for preferring the tenure during good behavior to the tenure during the sovereign's pleasure, king or people, whichever be the form of government under which the question of the constitution of the judiciary is to arise. But say what you will, disguise it as you will, you must give your preference, you must throw your vote in favor either of a judiciary established during good behavior, or a judiciary which has in its establishment the element of dependence upon the favor of somebody, if not from moment to moment, for continuance in office, yet periodically, in a monarchy, when there is a demise of the crown, or when there is an election in a free State. I am obliged to the gentleman from Rensselaer (Mr. M. I. Townsend) for his bold and open recognition of this issue, and for the distinct announcement, on his part, that he prefers the tenure during pleasure, to the tenure during good behavior. He says that, "never, with his consent, will he aid in putting an irresponsible master over his head." Now, as to the responsibility on the part of the judiciary, either to the procedure of impeachment or removal, the largest limitations upon its independence, which have ever been regarded as possible, that is preserved in this proposition, as in the present Constitution. But I charge the gentleman, that when he says he will not

put an "irresponsible" judiciary over his head, he means that he will not put an independent judiciary over his head. That was King James's position. He said, "I will not put an irresponsible judiciary over my head." But his was a royal head, and in the government of England he had a royal prerogative, and might well think that that made a difference between an independent judiciary over his head, and an independent judiciary over the heads of his subjects; yet this pride of royal prerogative brought his own son soon to have no head, responsible or irresponsible, upon his own shoulders. Let me ask the attention of the gentlemen and the committee, to the better language of another king, not supposed to be inattentive to, or unobservant of, his own prerogatives, I mean George III.

In the act of settlement which came as the result of the revolution of 1688, wherein the independence of the judiciary was secured, as pointed out yesterday by our learned friend, Judge Daly, there was left one point of insecurity in the tenure. Upon the demise of the crown the judicial offices became vacant by the commissions of the judges expiring; and at that single point the independence of the judiciary was threatened. Upon ascending the throne George III communicated to Parliament his wish that the commission of the judges should be made independent even of that single opportunity of royal interference; giving this reason: "Because the independence of the Judges is essential to the impartial administration of justice, best for the security of the liberties and rights of my subjects, and most conducive to the honor of the crown." Now, take from this language what belongs peculiarly to the Constitution of England, and let it read, "the independence of the Judges is essential to the impartial administration of justice, best for the security of the liberties and rights of the citizens, and most conducive to the honor of the State," and I say that for one, I do wish to put an independent judiciary over my

head, over the heads of all the people of this State, even over the head of the learned gentleman from Rensselaer (Mr. M. I. Townsend). An independent judiciary, that is the question. He takes the word "irresponsible." There is no force in it: independent is the word, and if God please and we, we shall have in this State an independent judiciary sustaining the majesty of the law over all the heads of all the people of the State, so that, as it is expressed in the Constitution of Massachusetts, "it may be a government of laws and not a government of men."

Mr. Chairman, I thank the gentleman further, for giving the one and the only practical reason which he can give, either from observation, or from experience or history, for opposing the election of judges for the tenure during good behavior. The reason is this. You may get a bad judge and then your situation is remediless. But the gentleman precedes the statement of his reason and his argument upon it by this proposition, that under the system of electing judges we never have had a bad judge, and that all the judges who have graced the Court of Appeals Bench under this system have been the peers of any the history of our State has shown. What then is the practical value of his fear that under the tenure for good behavior you may get a bad judge whom you would wish to depose but cannot readily get rid of, when we have his own statement that under the same system of election, which is now proposed, except in the matter of tenure of office, there never has been a judge that anybody should wish to get rid of? Why, Mr. Chairman, what feeble fears are these? If it be admitted that under the experience of the past, in our own State, there is no fear of our choosing bad judges, how are we to be frightened from the adoption of this good principle of tenure during good behavior by a fear which is shown by the gentleman who expressed it, to be wholly groundless. The good sense of mankind has shown that in our system o

civilization the public good and the general happiness of the community are promoted by the tie of marriage being made permanent and indissoluble, yet how frightful is it that a man may get a bad wife! This is the "free love" doctrine, in a novel application by the gentleman to the judiciary. "True," he says, "experience, observation, everything shows that the happiness and well-being of the community require that the marriage tie should be permanent, should be indissoluble, but think of it before you enter into it, or after you have entered into it improvidently, think of it if you should have a bad wife!" To make this parallel with the judiciary argument he should add "but to be sure nobody ever did hear of a man having a bad wife!"

Now, Mr. Chairman, beyond this there seems to be very little that has been, or can be said, in the way of argument, against a permanent tenure. True, the gentleman from Saratoga (Mr. Pond) entertained us, upon this question as upon so many others, with the statement that, "this is a government of the people, by the people, for the people." That we all agree about. The question is, what is a good government of the people, by the people, for the people? What, in respect of this department, is the best arrangement to maintain a government of the Constitution and of the laws? What to maintain it as a government of the people at large, by the people at large, for the people at large? This jingle of words is not to frighten us from determining according to our duty, what is the true arrangement of whatever department of government comes under our moulding hand, for the advantage of the public. Now, sir, let us look a little further. Gentlemen, pressed by the weight of the argument that it is unjust to the incumbent, and disserviceable to the public, to lose the judicial function in its honored representative at a period of his life when to unimpaired faculties he has added judicial experience, and that therefore the inducements of re-election must be held before the judge,

in order to supply the defect in the system of a fourteen years' establishment, as compared with a tenure during good behavior, now seek to interpose the privilege of re-election to meet that difficulty. But the privilege of re-election trenches upon the other point in which the tenure for good behavior is vitally important, that is, its independence. Gentlemen admit that upon a term of eight years, there are evils in the recurring elections, and that the influence of them on the judge's mind are not for the best; but that fourteen years is the magical term that is to rescue us from all this difficulty and danger. If the judge had always fourteen years of his term unexpired, there would be some force in that suggestion; but after six years of his term has elapsed, he is then an eight years' judge, and after two years more, a six years' judge, then a four years' judge, then a two years' judge, and then a one year judge, and therefore, if you introduce this element of re-election, you have pressing upon him with perpetually increasing force, this influence of a near election, which is not avoided by a fourteen years' term. If the gentleman can contrive a fourteen years' term which will leave fourteen years of the term always unexpired, I will support it, because that would be a tenure during good behavior. Now, this tenure for fourteen years without re-election stands as a single proposition. It is intended to meet the difficulties which are supposed to grow out of the re-election during judicial life. The term is put at fourteen years as substantially equivalent to a life tenure, and ineligibility for re-election is introduced as avoiding certain evils touching the independence of the judge, and I warn the committee that if you dispense with this condition, that there shall be no re-election, you cannot, on any principle, maintain the fourteen years' term. If the prospect of re-election is a desirable element in the constitution of this office, then nearness of election, nearness of responsibility, nearness to this government of the people thus insisted upon,



is obviously best. But no principle, no practical working system of election and re-election for terms of fourteen years will bear inspection. You will have many judges who could be re-elected for an eight years' term who could not be re-elected for fourteen years; and therefore you get less permanence under the fourteen years' plan, if you permit re-election, than you do under the eight years' term. Thus, sir, we must choose between the conditions of independence in the judiciary and the conditions of what is called responsibility in the judiciary; and if the principle of responsibility is to outweigh the principle of independence, then we must have short terms and frequently recurring elections.

Mr. Chairman, the gentleman from Rensselaer (Mr. M. I. Townsend) gave some illustration of a practical character of what he supposed to be the evils of a permanent judiciary. He alluded to two judges in the city of New York. One of them—as I suppose, for he did not name them—was a judge appointed under the old Constitution of 1821, whose judicial term expired at the age of sixty. He had the single infirmity of deafness, not touching his general capacity at all. Because of an instance like this in which a casual and single infirmity affects a judge in middle life, are we to be seriously told that a permanent judiciary is not to be thought of? I cannot help thinking that the other judge to whom the gentleman alluded was the late Chief Justice Jones, whom my friend says that he, in a visit to the City of New York, saw in the court room asleep upon the bench. I did not understand distinctly whether my friend was attending the Court in his capacity of a lawyer, and engaged in the cause, but only as a casual observer. Of that celebrated judge, I need only say in this regard, that the bar of New York had observed that he had as much judgment in selecting the opportunities for snatching a few moments sleep, as in any other matters, and that he was never known to be asleep when anything was going on that was worthy of his atten-

tion. But let me illustrate the trustworthiness and value of the personal observations of the gentleman from Rensselaer (Mr. M. I. Townsend). I, as a lawyer, practiced in the Court wherein Chief Justice Jones sat for fifteen years and more, while my learned friend was only a casual visitor for a few hours observation. I never heard a suitor, I never heard a lawyer, object to Chief Justice Jones, that he had not the widest and sharpest comprehension and apprehension of all matters pertaining to the law. The fact is, he is one of the strongest instances that could be quoted to show the value of a permanent judiciary. Let me tell the gentleman and this committee what I witnessed in the Court of that learned judge on the last day on which he sat there, at the age of eighty. Having the shortest unexpired term to serve, he was, by our present arrangement, the presiding judge, and on the last days of December, the Court was held to dispose of all the business before it in which he needed to take part. The bar was crowded by gentlemen expecting the determination of their causes, and the Chief Justice presided with an array of papers covering the desk before him. As was and always had been his custom, from his earliest judicial life, he took up each roll of papers, having nothing on it but the title of the cause and a memorandum of the judgment of the Court, as for plaintiff or defendant, and then recited in an oral judgment, the facts of every case, and gave the reasons for every decision. The causes were thirty-six in number, and every member of that bar and every member of that bench, regarded it as the most wonderful exhibition of sharpness and tenacity, and vigor of mind and memory, that had ever been presented by a judge, old or young, upon any bench in this State. Gentlemen may often be found who preserve their faculties unimpaired to the age of eighty, but few preserve also the capacity for work so fully as did that eminent judge. When he returned to the bar he was welcomed by his associates by a public dinner, the most

agreeable occasion of that character that ever occurred in the history of the profession in this State, and he afterwards continued honorably to support himself, at the bar, our equal in labor, our equal competitor for professional employment; and when he had passed the age of eighty-two, upon the retainer of the present Chief Judge of the Court of Appeals, then corporation counsel of the City of New York, Chief Justice Jones argued the great fire causes brought against the city in the State of New Jersey, and, in a summing up of five hours, delighted judges, jurors, the bar and the crowd of auditors. This is the judge who is cited to show the practical evils of the principle of life tenure because he happened to be asleep when the gentleman from Rensselaer was in court! Are we to surrender the instructions of history and experience, whose value cannot be overestimated, for what the learned gentleman thinks so much more interesting and important—his own observations, if his observations have all been as hasty as this? But further. Chief Justice Jones was not a judge elected under the tenure of good behavior; he was elected for a short term under the present Constitution, and chosen at the age of seventy-two or seventy-four—for I do not remember whether he drew by lot the term of eight or of six years' duration. The justification of the choice was amply shown in his wonderful discharge of the judicial duties devolving upon him; and he died, past the age of eighty-two, by a sudden accession of disease, without one faculty of body or mind lost—"his eye not dimmed nor his natural force abated."

## IV

### SPEECH AT DINNER TENDERED TO MR. EVARTS BY THE BAR OF THE CITY OF NEW YORK, AT THE ASTOR HOUSE, NOVEMBER 17, 1868

#### NOTE

After the Impeachment trial of President Johnson, the office of Attorney-General became vacant by the retirement of Mr. Stanbery, and the President invited Mr. Evarts to take this place in his cabinet. Mr. Evarts's acceptance of the position, in the political conditions of the time, did not escape criticism at the hands of some radical Republicans, but his appointment was very generally received with satisfaction. This was reflected in the letter addressed to him in September following his taking up the duties of the office by many eminent members of the bar of New York tendering him a public dinner. The letter of invitation was as follows:—

NEW YORK, September 28, 1868.

*The Hon. William M. Evarts.*

DEAR SIR:—The undersigned, your brethren of the New York bar, have witnessed with unfeigned satisfaction your accession to the office of Attorney-General of the United States. They regard this selection as the highest compliment which could be paid to our bar, and the choice of one of its foremost members to discharge, at this crisis in our national history, the duties of the law officer of the General Government is a just cause of felicitation and pride.

We are quite sure that we but give expression to the general sentiment of the profession and the community, when we say, that your acceptance of this post, at serious sacrifice to yourself, reflects the highest credit upon you as a citizen, and evinces a patriotic spirit which may well challenge imitation.

Entertaining for you, personally, the warmest sentiments of regard, and desirous of interchanging congratulations with you on the honors thus worthily bestowed upon one of our number, we cor-

dially invite you to meet the Bar of this city at a dinner, at such time as will be most consistent with your official and private engagements.

We have the honor to be, with great respect, yours very truly,

F. B. Cutting, J. W. Gerard, Ch. O'Connor, Edwards Pierrepont, Wm. Mitchell, Henry E. Davies, William Fullerton, Charles A. Peabody, John K. Porter, Hooper C. Van Vorst, Wm. H. Leonard, James T. Brady, John H. Anthon, Daniel D. Lord, Charles P. Kirkland, S. J. Tilden, Richard O'Gorman, Aaron J. Vanderpoel, Samuel G. Courtney, E. H. Owen, E. C. Benedict, Chas. Donohue, S. P. Nash, John E. Develin, B. W. Griswold, Henry Nicoll, C. Van Santvoord, A. P. Man, G. M. Speir, Edgar S. Van Winkle, William Betts, Wm. M. Prichard, John Slosson, Henry Hilton, James C. Carter, James Thomson, E. W. Stoughton, Charles F. Sanford, E. Delafeld Smith, Augustus F. Smith, G. N. Titus, Joshua M. Van Cott, Clarkson N. Potter, I. T. Williams, John Jay, John N. Whiting, Richard H. Browne, Isaac P. Martin, C. A. Seward, John E. Ward, J. P. Giraud Foster, S. Cambreleng, F. F. Marbury, W. F. Allen, Samuel L. M. Barlow, E. L. Fancher, James Emott, Freeman J. Fithian, J. W. Edmonds.

To this Mr Evarts replied:

ATTORNEY-GENERAL'S OFFICE,  
WASHINGTON, October 17, 1868.

GENTLEMEN: I should indeed be insensible to kindness, and indifferent to honor, were I not deeply affected by the generous sentiments of your cordial letter inviting me to meet the bar of the city of New York, at the dinner which you tender me in their name.

That my brethren, with whom my whole life has been spent in the strenuous contests of the profession, should do me the favor to feel a personal interest, and the honor to avow a general satisfaction, in my holding the professional position of Attorney-General of the United States, is more grateful to me than any other form of public approbation could possibly be.

I am quite sure that I may, without misgiving, accept this genial invitation as heartily as it has been offered, and I will anticipate the

pleasure of enjoying this professional festivity, on such day in the coming month of November as your convenience may name.

I am, gentlemen, with great respect, your obedient servant,

WM. M. EVARTS.

To Messrs. F. B. Cutting, Charles O'Connor, William Mitchell, James T. Brady, E. W. Stoughton, W. F. Allen, J. W. Gerard, Hy. E. Davies, Edwards Pierrepont, Wm. Fullerton, John Jay, Josh. M. Van Cott, and others.

The dinner took place at the Astor House on November 17th. It was a brilliant occasion and the attendance was very large. The company of between three and four hundred included not only all the most eminent members of the bar but many men of distinction in other walks of life, so that the festivity took the form of a very general testimonial of personal regard.

Mr. Charles O'Connor presided and introduced Mr. Evarts, in a few gracious words.

Mr. Evarts's speech that follows is taken from a somewhat faulty newspaper report of the occasion.

### SPEECH

*Mr. President:—*

How shall I express, how shall I exhibit, to you, and to you, gentlemen, my brethren of the bar, and to this brilliant array of guests that do our profession the honor to add the lustre of their various renown to this professional festivity—how shall I express and how exhibit my gratification and my gratitude for this, your kindness, for these your favors? I am sure I shall not mistake the propriety of the situation if I regard the incident in my professional life of my being Attorney General of the United States as the occasion, rather than myself, in any principal or important sense, the object of this public congratulation.

I am disposed, sir, to think that you are not wrong in your judgment when you have assigned to me a complete devotion of my life to our common profession. A defeat in a competition, within my own party, for its candidacy for the Sen-

ate\* can hardly be considered an exception substantial or important enough to be counted as a break in my devotion to the service of the law; and the only instances of actual public service that I have been called upon to perform have been wholly of a professional character. The errand that carried me twice to London and to Paris to assist the policy of the government, represented by so eminent ministers as Mr. Adams and Mr. Dayton, was strictly of a professional nature.† It was without other name, or credit, or duty, and I feel that I may fairly say that it was conducted by me as simply and quietly as its nature required.

My present position is almost, in duties, in purpose and in service, as distinctly professional as it is in name. To appear as the forensic advocate of the government in its principal litigations, and to act as the legal adviser of the Chief Executive and the heads of the departments in practical questions of administrative action, are certainly professional duties; and whatever color or quality of politics or statesmanship may associate themselves with the discharge of those duties come rather from the topics and the occasion to which the services are applied, than from the treatment which the officer himself gives them. It is true that, both in our own country and in England, this office is disposed, usually, in the distribution of posts of political trust; and in this country, though not in England, the Attorney General is a member of the cabinet. But in the circumstances of my own case, I cannot venture to give myself the least credit of hav-

\* On the retirement of Mr. Seward from the Senate, in 1861, to take the position of Secretary of State in Mr. Lincoln's cabinet, Mr. Evarts was a candidate before the legislature for the vacant seat. Mr. Horace Greeley was his competitor for the place. The evenly balanced contest resulted in the choice of Mr. Ira Harris for the place.

† In 1863 and again in 1864, Mr. Evarts was sent by the government on a private mission to England to give such assistance as he might be able to to our Minister, Mr. Adams, in the efforts to prevent the escape from English ports of the Laird rams, then building for the Confederate navy.

ing attracted attention to political abilities or political services; and must be satisfied to ascribe my promotion to a partial estimate of a professional service and a generous disregard of political differences, and when, after a brief service to the government, through a somewhat critical juncture in its affairs, I shall resume the ordinary employments at your bar, fortunate indeed shall I be if the stronger light and the more curious gaze to which official position will have subjected me, may not, even in the favorable judgment of you my friends, have served to diminish that favor by a betrayal of the poverty of my attainments and the paucity of my resources.

But, Mr. President and gentlemen, I am not disposed to think or to say that the profession of the law in its ordinary routine of duties is not emphatically a public profession; for such I believe it to be. In their relation to government and the institutions of society, their protection and defense, I believe the labors of the lawyer to be more habitually, more definitely, more responsibly, labors in the public service than are those of members of any of the other principal employments; and I believe that the profession is to be looked upon, in reference to constituted liberty, whatever dangers threaten it, whether from the despotism and the tyranny of absolute power, or the anarchy of rash popular enthusiasm, as the old guard that will ever defend it. Of the lawyer, more truly than of any other pursuit of man, it may be said, *In privato publicum negotium agit*.

The presence of so many distinguished divines forbids me to overlook, even if I otherwise were inclined, the modes in which the pursuit of their calling is of service to the State. We gather from the wisdom of ancient times a brief motto which makes us mindful of this fact: *Quid leges sine moribus?* which may be freely translated:—"What are constables good for without clergymen?" And so it is; for who does not know that it is by the instruction in personal virtue, by the lifting more and more of the masses of society into that con-



dition in which they are a law unto themselves, that civil government and the profession of the law are able to manage the irregular instances of violation which even then occur. But without this preparation, by the church and its servants, of the individual character of the men that compose free society, its maintenance by government and law would be impossible; and without that preparation the administration of government and the resources of our profession would be as trivial as binding a strong man with withes.

And I think we must also admit that as the clergyman precedes the lawyer, so also the physician goes before both. We are glad to see so many of them here at dinner; but after dinner we are often obliged to send for them if they don't come. But what are the instructions of virtue, and what are the restraints of law, if the physical man is not protected and succored and healed? And, certainly, even in the ordinary routine service of the medical profession, how large a part of their toils and burdens is distinctly borne in the service of the State, without fee or reward, in the succor of the indigent sick! And of late even a larger claim to public service and public gratitude has been laid upon us by the profession, for they have assumed, and with fidelity have discharged, the duty of protecting the *public* health—of averting disease and pestilence, and protecting and sustaining the community in the enjoyment of life. What more wonderful instance in the history of man, than that the medical services of this city, two years ago, should have averted the cholera and left us untouched by its poison? What comes nearer to a Providence in the affairs of men, than such a public service from a learned profession?

But, if we consider, gentlemen, it is the naval and military service that stands first of all; for to protect and defend the institutions of society from actual ruin, and the lives and fortunes of the people from destruction, is, when the occasion arises, greater than to ameliorate their conditions or develop

their advantages when they are safe and preserved. And thus it is that those who win great victories, in the service of the State, by sea or land, will always receive the chief plaudits and the first honors of the people whom they protect and save.

And, then, what shall we say of the merchants, of whom I see so many goodly representatives about these tables? The merchants have this singular advantage over us all, that they alone are permitted, in our equal society and under our Republican government, to be called "princes." Princes, indeed, they are, and they rule us with a wand of gold—or paper—as the case may be. All are obedient to their sway. They support all the other professions, and pay the expenses of the government as well; they maintain the churches and the hospitals, and they are at the base of this great structure of civilization which I have alluded to in the different branches of the public service before me.

Yet I must admit that the aspect of chief interest in which our profession looks at the merchants is as clients. Their enterprise, their courage, their sagacity, their perseverance, their skill, traverse the globe, and ransack its wealth to bring home purses full, only to be lightened by the lawyers. Our profession may be likened to the canvas-back duck which we have enjoyed to-night. It gets its delicate juices from the peculiar food on which it lives, the wild celery of the marine marshes. It saves its tenderness by not being at the muscular effort of diving, but waits till the more vigorous ducks have brought to the surface the favorite food, and then takes its share, which is, I believe, in this case, the whole.

Notwithstanding this superiority of all these other pursuits over that of the lawyer to which I have referred, we lawyers may at least be satisfied with the general supervision of them all; which in the case of the clergy is, if not fully conceded, at least vigorously assumed by the legal profession, to settle all the points of theology, or church, whenever it

reaches possibility that they cannot settle them themselves; and the Privy Council of England passes upon the provisions of the Rubric, and decides what is necessary to salvation. In the case of the doctors, the cure of the sick, the healing of broken limbs and gunshot wounds may all be looked over by a judge and jury to see whether the thing has been properly done; and if it has not been, then instead of the patient paying the doctor the doctor has to pay the patient.

And so on; for we do not stop at the magnitude of this game. Admiral Farragut is very fortunate that he has not been shot—by the law—for recklessly exposing his life in circumstances for which before that time no precedent could be found; just as Admiral Byng was shot for not fighting quite soon enough, and not hard enough, because a court and jury could take a cool survey of the battle after it was fought. Why, gentlemen, it happened to me (to show that there is no extravagance in this matter) to hear what would be considered as far beyond the scope and duty of my profession to have anything to do with as anything that could be imagined—to hear the Charge of the Six Hundred at Balaklava discussed on affidavit and counter affidavit, before the King's Bench in England, on a motion for a rule to show cause why information for libel should not be filed. Lord Cardigan, who was the party involved, came out from court with a military reputation which his actual conduct in the charge had not been able to secure him, though he was entitled to it. I had a perfectly distinct view, to my own mind, as a lawyer, exactly where every man stood in that engagement on both sides during the whole of the conflict, and the precise rapidity with which they moved during the five or ten seconds that carried them along into the affray out of which they never came back.

Now, I don't know, because libel suits are not much in vogue,—we haven't information in the nature of a general inquiry—I don't know that our distinguished military guests here are

in any particular danger from the oversight of our profession. But if the charge at Balaklava cannot escape the scrutiny of the law, what can be safe from it in human affairs?

In this scrutiny that we have of the other professions, we sometimes get a chance to say a good thing about them; and I am sure it may be worth while to recount, what rests upon so distinguished and venerable authority as the Year Books, the estimates solemnly given in law of the position of the clergy, arising on a very different inquiry. It seems that somebody had been so rude as to call a clergyman a fool, with a prefix expletive, to give point and stigma, drawn from the arsenals of theological denunciations, and not from the technical words of the law. Now, in an action for slander, the point came up distinctly, for without special damage proved we hold such words injurious only when the party spoken of is injured in his profession, and the court held that it was not actionable, for it did not injure the clergyman in his profession. But the Court said it would have been actionable had it been said of the lawyer.

So, too, of the medical profession. I remember an instance when a doctor's bill was under review, and the effort was to show, on the part of the defendant, that the doctor had repeated and stretched his visits when there was no need of it, and his counsel, reinforcing his witness, endeavored to show that it was absolutely necessary, and led the witness by the question, "This was necessary, was it not, as being a case of danger?" "Yes sir," said the witness, "I considered him in danger until the doctor left him."

The labors of our profession, Mr. President, as is well known both to you and to me, are not always important in proportion to their publicity or their brilliancy. It is said, I believe, even in war, that a fight in the dark in a ditch requires more heroism than it does at the head of an army to the sound of music and with flaunting banners. And certainly I think that, setting aside constitutional questions and great

social questions, and those that involve the fashions of society or of individuals, and attract attention, the real hard task of the lawyer is in jury trials and when you have an utterly hopeless case for a defendant. Then you want your mind clear. I heard an anecdote, repeated by no less a person than the Lord Chancellor of England, which comes in play here, where a well-known Boston wit of our profession gave origin to the story. It is said that Judge Warren, one time in Boston, in the midst of one of those heated terms which make our summer so uncomfortable, was sitting in his office turning over some papers. A client of his, a tailor, happening to come in, said, "Well, Judge, I see you work this hot weather." "Oh," says the judge, "I am merely doing work that doesn't require any attention; it is too hot to do any real work." "Well," says the tailor, "that is exactly the way I feel in my business. I can get along with an ordinary cutting and sewing, but when it comes to button-holing, I must have my mind clear."

I am inclined to think, Mr. President, when you have a defendant who must have a verdict against him, and all you can do, or hope to do, is to make it as little as possible, you require a clearness of mind for *button-holing* a judge and jury.

The real steps of advance of the lawyer in his profession are to be noted by the grade of his adversaries. I believe indeed, Mr. Chairman, that as the young lawyer finds himself pitted against a senior in the profession, he may rightly feel that he is advancing; and however great the embarrassment, and the gratification, too, that I have felt at different times, Mr. Chairman, in meeting you in the profession, I do not know that I have ever felt so great embarrassment as in this association to-night, for you have spoken wholly on my side, and I could not be permitted to add anything to it, and it is impossible that I should gainsay it.

But the crown and summit of the profession is the judiciary. It is the best, the highest, the most beneficent station

in human affairs. All men revere the memory of the upright and able judge; and by the same rule all men abhor the unjust judge, and all men to the latest generation curse his memory. And now, sir, in your time and mine, how nobly and admirably have we seen our judicial places filled! and how many excellent, able, upright, laborious, ill-compensated judges! Let us leave the matter there, rejoicing that we see so many of those whom we have praised at our table to-night, and especially one member of the bench, who adorned it when I was admitted to the bar, Vice-Chancellor McCunn, who, in perfect health and vigor, and with the respect and observance of us all, honors us by his presence to-night. I cannot but be impressed with the contrast when I see how little he is changed, and then I think how much the judicial establishment and the professional practice vary from the judiciary and practice of those days.

The judge's station, as I have said, is the crown and summit of the profession. All men unite in praising his ability, which can never be too great, and his justice, which can never be too severe. I once noticed, in the observations of Archbishop Whately about the profession of the advocate, some that were very uncomfortable. He, admitting this character of the judge, says that it is not a benefit to society to have an *advocate* who is more brilliant and able than the rest, for it makes things uneven; and he thinks it is well when such an advocate drops out of the arena. Well, now if society should take up that idea, and put in practice what is implied in it, though I should have no fear for myself, I am afraid, Mr. President, that your life would have been shortened long ago, and I do not know how many of our brethren here at the bar would be taken off by untimely death, unless our people learned to promote them to the bench. It is but a feeble image to speak of the purity of the judge outshining the purity of his ermine. He seems to me rather to come up to

the splendor of the white-armed nymph whose limbs outshone the splendor of the zone which encircled her.

And now, Mr. President, closing these observations, desultory and far too long, I beg to be permitted to say a word or two about the good fortune that has attended my life. I do not know in the thirty years that have almost elapsed since, as a student, I came to your city, any man has ever done me an unkindness or an injustice; and if I could feel that I might say of my own conduct that I have never done an unkindness or an injustice to a brother in our profession—if I could say this, I should feel that I had in some degree repaid the great debt which I owe to you all.

But it seems to me as if I were indebted to others from the beginning to the end. I do not speak of how much I owe to my masters in the law school—Story and Greenleaf—but I may be permitted to say that no man can owe a greater debt to a teacher, a master, an example and a kind friend, than I owe to Daniel Lord; and I may be permitted to say, too, that no young man can be better aided in the early days of his profession than I was by Prescott Hall, my master and my friend; and my partners, still about me—my partners, never changed but only added to, in twenty-eight years of professional life—they are present at this table, and your knowledge of them forbids, and makes it unnecessary for me to speak of them. I recognize the debt to all—the constant obligation; and when at last the seal shall be set to my life (until which we are admonished to call no man fortunate) I may well be deemed fortunate, if any law student, any young lawyer, or any dying veteran of the profession, shall feel, even in a moderate degree, toward me as I do toward these, my masters and my friends.

## V

### **SPEECH AT MEETING OF THE BAR TO ORGANIZE THE BAR ASSOCIATION OF THE CITY OF NEW YORK, FEBRUARY 1, 1870**

#### **NOTE**

In the autumn of 1869, a movement was started by many of the most prominent lawyers in New York City to organize an association of the bar. A call for a meeting was issued in December 1869, signed by about two hundred members of the profession, who attended on the day set to complete the organization. Mr. Edgar S. Van Winkle presided at the meeting which was addressed by the following prominent members of the bar:—Henry Nicoll, Edwards Pierrepont, James Emott, Samuel J. Tilden, Edwin W. Stoughton, William M. Evarts and Dorman B. Eaton. The meeting appointed committees to prepare a constitution and by-laws and to nominate officers. At a subsequent meeting the organization was completed and Mr. Evarts was elected president of the Association, an office to which he was annually re-elected for the following nine years.

#### **SPEECH**

I suppose, Mr. Chairman, that every one of the gentlemen here to-night is as much a mover in this effort to combine the bar for useful purposes of interest, as any other. So far as I have made the subject a matter of conversation with my brethren of the bar, with more or less of point in the conversation, during the last seven or eight years, I have found no difference of feeling and none of purpose; and I believe all that has been needed has been that some should take the responsibility and labor of collecting the sentiment of their brethren, as has been done by those who have signed the call for this meeting, to ensure an honest, a sincere, a brave, a considerate, a determined, a persistent, and an absolutely fearless, organization of the bar of New York. I think there is nowhere in this



matter to be seen, feared, or suspected, a sinister, a selfish, a personal object, either in respect to protection, defence, elevation, or attack; it is all public, all general, all noble and useful.

Now, there have been felt, I think, to be several considerations which should induce the bar, as scholars, as gentlemen in a common pursuit of life, to combine their influence and the contributions of their resources, in a way which will afford us opportunities for the research and study which our profession requires, and for the consultation and communion with each other so important to it. I think we have all felt that to be a great, a numerous, a wealthy bar, without a library adequate to our name, and suitable to our credit, without the means of association in the ordinary forms of intercourse on common grounds, during the hours of the day when we have any leisure or opportunity for such intercourse, was not only a reproach to us, but an injury to us. Without any special moral occasion, or any particular incentive of public duty in the public need, I think that in the minds of many there has been a purpose, whenever opportunity should serve or attention could be commanded, to induce a combination of the profession with such an object. I hope, sir, that this committee will consider these objects as a part of the organization proposed, and which must have sufficient of a substantial and acceptable interest to its members to keep us closely and permanently connected.

With this general object and motive for combination, there is a more powerful and deeper, a more responsible and a more active sentiment, growing out of the condition of our profession and of the judiciary, and of the sentiments of this community towards both. Careless we have been, careless almost all the interests of society have been, of the great and perpetual trust, which rests upon every generation in a free and equal community, to see that they bear their share ever, not only in the enjoyment of the noble heritage that has come to

us, but in its maintenance, its protection and its defence, and that they shall transmit it ever, not only unimpaired, but amplified—not only unpolluted, but ever brighter and fairer, to every succeeding generation. And we must not lose sight of this fact, that just in proportion as a society is free and equal in its constitution, just as there are no rulers and no captains, just so is it the more incumbent upon all in the only rank there is—the common rank—to see that they do not become selfish and isolated and envious and injurious, but that they cultivate sentiments of common purpose for the common interests. In institutions framed in this spirit must ever be the only form of power that an equal and free community can tolerate; and every institution must take care of itself, and not leave to the enterprise of its competitors and rivals the building up of itself.

Now, with these general observations, let us see how much the bar can do for its own credit, its own power and the service of the community, and how much it can do towards maintaining the credit and character of the judiciary—that weakest portion of our political system, that portion that has, or should have, no patronage or influence and no political authority, which is dependent upon its integrity, its learning, its capacity, its public spirit, and which must ever rest upon the bar, as the chief interpreters to the people at large of its relation to the community, and as the principal means and agency by which it discharges its judicial duties in all its obligations to that community. For the judiciary is not a spontaneous agency in the administration of justice. It never does anything, solemn or *ex parte*, except by the invitation—the instigation, if it be evil—of a lawyer. Now, is it general doubt, or general discontent, or general disregard of the community, that it should be subject to aspersion and to suspicion, and not feel, or be permitted to plead that some lawyer was the first mover in every wrongful act of the judiciary that brought it thus into contempt? Who does not

reverence the judiciary? Who does not, in the midst of the pressure, the excitement, the credit, the honor, the emoluments—opened so richly to prosperous lawyers here—respect every man who takes a place upon the bench, and foregoes these bright and alluring invitations to fame and wealth? And who but feels struck, in his own sense of manhood and of dignity, when the judiciary, which is the crown and honor of his profession, is brought into disrepute? And who, when he reflects that his own profession is the moving party in everything that is done by a judge, good or ill, but feels that it is time for him to collect the honorable and upright and worthy men of his profession together, that they may put their finger upon the unworthy who take the lead, under whatever motives, in these injurious and weakening courses or proceedings? Why, Mr. Chairman, you and I can remember perfectly well (and we are not very old men), when, for a lawyer to come out from the chambers of a judge with an *ex parte* writ that he could not defend before the public, before the profession, and before the Court, would have occasioned the same sentiment toward him as if he came out with a stolen pocketbook. Our knowledge of the profession and of the affairs of life teaches us that from the other side we get new light and new wisdom, and then comes the solemn action of the Court, and we meet our adversaries, our brethren, face to face before the judge; but as to what passes between the judge and us *ex parte*, it is upon honor. Sir Jonah Barrington, in his recollections of the Irish bar, tells us, that this sense of honor and right, so far as depended upon the personal knowledge and skill of the lawyers engaged in any cause, was carried to such an extreme, that if a man demurred to a pleading at that bar, it was considered a good ground for a challenge, as being an imputation upon the ability or the integrity of the pleader, and he says that many duels were fought upon that ground. But, without sharing this extravagance, really, Mr. Chairman, I think I have not exagger-

ated this matter of the duty and responsibility of the bar in its dealings with the bench.

Now, perhaps, I have said enough, but I will add that the situation is an extremely serious one. It is very difficult to make people believe, but still it is true, that if an institution contains corruption, and the line is not drawn closely to sever it at once from the sound body, however honest, however earnest may be the purpose of the worthy members, the plague-spot is in the body, and the whole is sick. The disease is not local. It may be cured; but while the plague-spot lasts, the whole body suffers. The institution is suspected, the distinction between the members is not and cannot be known. I speak now of the bar quite as much as I do of the judiciary, and it is only when you attempt to make a rally of the powers left, to make the issue, that there shall be *no* disease, *no* corruption and *no* base aspersions without foundation, and that it shall not be permitted for men to scoff without cause at the administration of justice either through the bench or by the bar, and make it plain, one way or the other, that the institutions are pure and strong, or that they are vicious and corrupt—it is only by that rally, that we can restore health and strength, and confidence. . And that is the purpose of this rally to-night. It is aimed at no other object than the evil itself—to ascertain it, to measure it, to correct it, and restore the honor, integrity and fame of the profession in its two manifestations of the bench and of the bar.

## VI

### ADDRESS AT THE DEDICATION OF THE MEMORIAL STATUE IN THE BOSTON LATIN SCHOOL, BOSTON, MASS., DECEMBER 2, 1870

#### NOTE

Shortly after the close of the Civil War the graduates of the famous Boston Latin School determined to place in the school building in Boston a memorial to those of their number who had lost their lives, during that conflict, in the service of their country. The memorial took the form of a symbolic statue executed by the sculptor, Greenough, himself a graduate of the school.

Mr. Evarts was invited to deliver an address upon the occasion of the dedication of the statue. On arriving in Boston he found that those having the matter in charge had expected that he would deliver a carefully prepared and elaborate address—in the language of the day—an Oration. He, not understanding that he was to take so conspicuous and chief a part in the dedicatory exercises, prepared his speech, according to his usual habit, by making brief notes of headings and topics, and by these as a guide delivered the following address, which was considered at the time to have met the requirements of the occasion, and was received by his cultivated audience with enthusiastic approval. The speech as it appears in this collection is taken from the stenographic report made at the time.

#### ADDRESS

*Mr. President, and Ladies and Gentlemen:—*

I received, some months ago, the invitation of the committee to take some part in the presentation of this Memorial Statue to the gaze of Boston people, a dedication of it to the public service of this city, with unaffected pleasure. Although, by my birthright, I felt entitled to have a share in all the great industrial interests and the literature, all that makes up the fame of this renowned city, yet I know that my own

memories, and my own associations with Boston, were wholly confined to my school days and my school life; and though I might have felt that to participate in any other ceremonial of local interest was quite outside of any propriety on my part, I could not deny that I was as much a Boston schoolboy as anybody could be. From the time that I was five years old at the primary school, and then from seven to ten at the ward school, and then onward till I went to college, I was a school-boy of Boston. All my active life has been passed elsewhere, and if there has been anything in it which induced your committee to look with favor or approval upon it, and to recognize my right to be counted in this festival of the schoolboys of Boston, it is to those schools, it is to the Latin School, that I acknowledge the obligation and proclaim my gratitude.

Agreeable as was the invitation, I should yet have hesitated long before accepting it, had I not felt that the part assigned to me was not one upon which in the least was dependent the interest or the impression of the occasion; that here and now, as elsewhere, and at all times, on all occasions like this, it is the dead, who, being dead yet speak, no matter by what voice of the living eulogist life shall be given to their utterance; and that his eloquence can never outspoke the eloquence of commemorated lives.

I had supposed, Mr. President, that we should have really seen the actual statue and the tablets, and the portraits and the forms and benches of the boys, so that we might have felt that the occasion that drew us together was represented by what we saw about us, and that no part was needed except to give some suggestive lead, perhaps to the considerations which had made these lives memorable, and made the commemoration useful to the community. Now it appears that the genius of one of our scholars, under the inspiration of the committee, has produced what I am told is thus far the only public monument to the memories of this war in this great city, and which may remain so for an indefinite period. Cer-

tainly, it is complete and satisfactory; certainly, it appeals to the youth of the city in their daily haunts, and is to form a part of their education. The artist, with a touch grave and solemn, a sense of the duty which we all feel, has produced this emblematic mother full of exultation at the glories of her sons, full of grief at their sacrifice, full of serene joy that other sons yet survive.

The shield is emblazoned with names that the citizens of Boston will never let die. The legend *pro patria* is the only legend that informs the observer in what cause they fell, for what cause their names are thus preserved, and why they stand separated from all the youth that ever graced this city, from all the youth that have ever drawn their knowledge from this ancient school,—separated forever from the living and from the dead. It is for me only, as simply and as briefly as may be, not to suggest to this audience, but rather to recall, some of the principal traits in the lives and sacrifices of these young men which have made them memorable, and some of the considerations which induced this commemoration, and may promise useful fruits to the present and future generations, from this honor thus definitely paid them.

*Pro Patria* is the motto of those who have died for their country, and for their whole country; and yet this monument is raised to men who fell in a civil war. "For the King or for the Commonwealth, for York or Lancaster," is the praise of loyalty in civil war; and yet the deaths in this Civil War that have been devoted to the government and the safety of the republic, we may justly pronounce to be covered by the sacred name in classic fame of "death for their country." How shall we paint this, and yet not claim for them what should be denied in other civil strifes? It can only be, from the nature of the conflict and from the part they bore in it, that this shall be claimed, now and forever, in the face of all men, as a monument to men who died for their country,

as much as to those who at Bunker Hill made the same sacrifice for their country.

Ten years ago, when the clouds were first rising in the political horizon, which presaged the immediate burst of war, to an observer, who either was not aware of the intense and vehement moral causes that were at work in the bosom of this nation, or who did not believe in moral causes as producing great conflicts, generally flowing from passion or from interest, nothing seemed less rational, nothing seemed less probable, than that this nation should be distracted and convulsed by war, foreign or civil; to such a one, none of the ordaining motives that should throw a great, a prosperous, a powerful people out of their triumphant pursuits were evident. Marching ever onward in the procession of time, and in the face of all the world to greater and greater power of every kind, a nation rose out of their strong and happy peace into the severities and hardships of war. Certainly, no people were ever situated so as to be more secure against war contrary to their will. Certainly, no people were so little tempted to war; the territory rounded out, the population thriving, increasing, already vast, commerce adding new wealth, all nations seeking favor rather than occasion of strife with us, no neighbor whom we could fear, no neighbor tempting us to aggression, no neighbor tempted to encroach upon us, and at home, outliving, as we had supposed, all those clumsy and irrational methods of contestation, that, by violence and bloodshed, undertook to settle people's opinions against their will; with a condition of life where all were equal, with no dynasties to create ambition or furnish food for contests, with every facility for argument and discussion and the suffrage, and frequent recurring opportunities to take the sense of the nation, which, once expressed, implied the power, if need be, to enforce it. And yet, within one year from that time, the forces were set against each other that showed greater strength and greater courage, and more ener-



getic purpose, than had ever attended a war among men. As it progressed, ever and more evident was it, that it was a struggle never to be ended till the great moral questions of right against might, of equality against privilege, of justice among men against power over them, were the issues to be settled by this death struggle between immense and passionate forces.

When this was seen, it was felt that all the arguments against war for trade, against war for ambition, against war for aggression, against war for hate, had disappeared, and that war for duty and for safety was the highest obligation of a nation that had a heritage such as ours; for, to a people with our origin, with our discipline, with our future, that had fondly hoped that all the discords, that were bred within our collected population and our divided interests, should pass away under the influence of peaceful authority, it was at once proposed, and in a tone not to be misunderstood, that we should meet an issue, and for the future, put up either with a corrupt Constitution that should perpetuate the injustice and the shame of slavery, or a mutilated territory, that should divide and control the area and strength of freedom; and to the issue thus presented, which to a great part of our nation at the outset seemed to present the degree and form of choice open to us in this issue, statesmen and orators, conspicuous leaders of public opinion, great masses of intelligent and educated people, debated on the grounds and considerations, some higher and some lower, of the discussion which of these alternatives it were better that we should accept!

But beneath all this, without distinction of any party or past opinion, the well trained intelligence of the American people at once spurned this election, and determined that they would fight for and maintain the entire heritage that they had received from their fathers; that they would save the whole country in every inch of its area, and the whole Constitution in every word of its promise for the future. All

that had made the progress of freedom, and all that promised itself a security, was here put at issue, against a demand that liberty should stay its progress or retire from a portion of this continent; and once understood, a conflict was marshalled which had no other issue than the fate of human progress for the time. When you consider that, on so vast a scale of population, of territory, and of power, and in a nation so far advanced in all the arts of peace, brought to the furthest point of moral and religious and intellectual culture, this issue was in this war, you cannot but feel that if we could separate ourselves from that familiar knowledge of the actors in it, and of our own participation in it, which breeds depreciation, if we could look at it as the action of another nation, or read about it in other history, we should pronounce this contest as the most direct, thorough, definite and decisive issue between the great principles of right and might that men could be engaged in.

It was then, gentlemen and ladies, in such an issue, and lest they should be robbed of such a country, that these men yielded their lives to the stress of battle. Certainly, the contest was worthy of any degree of personal heroism, and will support every amount of public commemoration of those who took a useful and honorable part in it. Now we have only to see and to say what the part was that these young men, our townsmen, our schoolfellows, and playmates did, in fact, bear in this controversy. What was the quality of their motives? What the nature and description of their sacrifices? What the intelligence, what the acceptance, with which they met this issue?

In the first place, we see at once that this population from which these young men proceeded was not exposed to any very near danger or discomfort from the growing war. If Boston and Massachusetts could be satisfied with security of Boston and Massachusetts, and be careless of the rest of the country, or the fate of the question, Boston and Massa-

chusetts were very safe; and these young men lived also in a community where the whole course of reasoning and of sentiment had for more than a generation discouraged war. An advance it was supposed had been made for our time and for our people that should never recall to the unpracticed hands of American youth the weapons of war. So, too, these young men, so far as I have noticed in the narratives accessible to me of their lives, were all individually in circumstances where neither chance nor need carried them into this conflict; and they were of that past education and those formed habits of mind that did not and could not urge them to this contest upon any other considerations than those which their conscience approved and their intelligence accepted. When you find that of the youth of military age that had come out from this single Boston school, two hundred and eighty-seven served in this war, and when I say to you that from the classes most readily furnishing or permitting the material for military service, the classes from 1850 to 1855, in those six classes, there was an average of twenty-three young men from each that served in this war, and that from one single class, of 1852, there were forty-three soldiers in this war, you must understand that there was some movement among the youth, nurtured as these youth were, and in this city, having its hold upon the best and most universal sentiments of the people, and of true patriotism, that could have thus crowded them into the ranks of our war.

I cannot discover that there were any of them that, either by distinct vocation or a particular devotion, had accustomed themselves to the arts of war. I cannot perceive that there runs through the narratives and the records that they themselves furnished of their lives, their conduct, and their motives, the least touch of the love of glory, the least desire to exchange the fair promise of peaceful service to the State for this new scene of action. I cannot say that as the war grew upon them, and their young fames flowered in the admiration of

their country, that to the last battle day of any one of them there was the least introduction of self into the scene and into the scheme of their action. I must, then, feel that these young men, carried neither by chance nor by interest, accustomed by no education and no experience to any of the toils, nor hardened to the dangers of the strife, who thus came and bore their part in this contest, are in your judgment, in the judgment of all their friends, in the judgment of all the country, in the judgment of the future and of history, entitled to their personal participation in the great and noble sentiments that urged on and carried through the great struggle.

Whatever of glory the country at large may claim for its civilization, for its sense of duty and for its fortitude, its courage and its triumph, these young men who have died in such a cause, and upon such motives, and sacrificed their lives under such deliberate and persistent choice that they would brave death, rather than submit to degrading and retrogressive tendencies in the age and country in which they lived, in the largest possible measure, either by fortune or by principle, for their recompense, shall be among the foremost of their countrymen in the memory of this and of future times. It was not because they did not appreciate the pleasure of peace. It was not because they did not appreciate the hardships of war. It was not because they did not understand the perils of honor and did not know the charms of ease. With all this knowledge they chose, and they gave their lives to the choice. These men, these young men, these boys of the Latin School, are entitled to the deepest homage of all their country. *Maxima debetur pueris reverentia.*

Now was the issue of this conflict worthy of the sacrifice, and were the sentiments that urged it on, even at the great cost of war, justified by the result? Why, there are no sufferers from the *result* of this conflict! There was suffering, plenty of suffering, by grief, by loss in this community, and certainly diffused throughout the land, rebel and loyal; but

I propose to you, fellow citizens, that as the result of this struggle there is no oppression, no suffering, no loss, no harm anywhere throughout the world, but everything is full of goodness. When was it ever heard that the beaten party in a civil war met nothing but amplification of right and freedom, exaltation in the sphere, in the scale, and in the hope of future progress? How is it with other nations? There is no nation throughout the world which finds in these our triumphs cause for fear to its hope or its safety, but every nation throughout the globe finds and knows that we have fought the battle of humanity, and that the rights and hopes of men, all their personal, their national, their complete and entire progress and development, have been advanced by the results of this war. Certainly we may say, then, that the issue has approved the action of this nation, and that when from other wars there have come consequences and threats to peace and prosperity somewhere, when the relative conditions of the beaten and triumphant parties in the same nation have subjected one to the oppressions and insults of the other, when we can show as the results of this conflict nothing but elevation, hope, and prosperity to come, we may feel entirely justified in the ascription to moral causes of the whole responsibility for this conflict, and they are entitled to reap the triumphant reward.

Now there remains only to consider whether, although the completed round of origin and action and the issue be wholly of this elevated and this gratifying character, there may yet be included in the example or the influence for the future, some disturbance of the real moral basis on which we proclaim, and before this war felt, our institutions rested, and on which they were to be perpetual and secure. I know there are some public orators, some statesmen, perhaps, who seeing this nation thus inflamed by war, and its immense energies thus displayed, its great triumph and the great fame that have attended it, think that

a military spirit has been implanted in the bosom of the people, that will find in questions of policy and of interest, in covetous ambition, and in the disposition to regulate the elections, a preference for war over peace. But be sure that a war, such as we know our Civil War to have been, is the severest, the most earnest, and the most intelligible lesson which a people ever had occasion to learn, that in the language of Scripture, "Wisdom is better than weapons of war." For a nation to espouse the cause of liberty and justice at the cost of war, is a very different thing from a nation's disposition to espouse the war at the cost of liberty and justice; and by the same schooling that has made us ready to repeat, if need be, every measure of past sacrifice for great moral purposes in the good of our nation and of the world, we have learned that war *for* war is neither fanciful nor political, but involves sufferings which are only justified by the degree and firmness of the virtue on which they rest.

Now of the influence of this memorial statue, and this perpetuated example of the youth of this school upon the school itself of the future generation. As this nation cannot be the same nation it would have been without the war, much less the same nation it would be if it had shrunk from the war, so this school for the future generations of its scholars never shall be merely the same school that it was when you and I, gentlemen, were its scholars.

We had no nearer lessons of patriotism and of virtue within its walls than those which we read from Greek and Roman history. But now there is no boy that enters its doors, who does not, in the daily contemplation of the bright names of these fifty-one Latin scholars, blazoned on the shield, draw in the influences that open the mind to great sentiments, and gain at the same time an inspiration that no history can surpass by any of its examples. An education like that, worthily bestowed and worthily accepted, neither softens the manners nor the mind, so but that, at the call of duty and of

country, these boys are to be as great heroes as the world ever saw. No greater inspiration for good can be drawn from the memory of Warren and Prescott than these boys are to draw from the sight of this escutcheon of glory and esteem. They are to learn this to be sure, that as the common phrase goes, peace, having its victories as well as war, peace, too, has its disasters, its duties, its sacrifices, its burdens, its losses; and they are to have but a puny heroism if they reserve for themselves the obligation of fulfilling the call to duty for the country and for the good of men only to future occasions of the battlefields. But as every greater includes the less, so in the great conflicts which no man can tell how near they may be, for right against might, for duty and honor against fraud, temptation, and bribes, the youth of Boston, the youth of the Latin School, the youth throughout the land, must be ready to perform their share in the contest at an early and a later day, and forever.

Vigilance, enemies, dangers, are a part of the duty and the circumstances of peace as well as of war, and these youth are to be taught that they are never to save life, or make it happy or prosperous or easy, at the expense, in whatever form the danger comes, of what makes life valuable and useful; that no boy or man can justify himself to his conscience, or in the approval of his fellows, *propter vitam vivendi perdere causas*.

Now, gentlemen and ladies, this monument, this emblematic statue, these tablets, are henceforth to be a perpetual possession of the school and of the city. This sacred institution of learning in the land has not failed to secure its whole proportion of the praises that belong to the educated and disciplined talents that have borne their share in this war. We, you, will cherish their memories ever. Must we not feel that in the presence of these monuments to honest fame, the safety and the prosperity of our country and its freedom are ever secure?

## VII

### ADDRESS AT THE DEDICATION OF THE WEBSTER STATUE IN CENTRAL PARK, NEW YORK CITY, NOVEMBER 25, 1876

#### NOTE

In 1874, Mr. Gordon Webster Burnham, a public spirited and wealthy merchant of New York, in a letter to the President of the Department of Public Parks, offered to present to the city of New York a colossal statue in bronze of Daniel Webster, with an appropriate granite pedestal, to be erected upon a suitable site in Central Park. This munificent offer met with hearty acknowledgment and praise from the general public and was thereupon immediately accepted by the public authorities in behalf of the city. The commission for the statue was at once given by Mr. Burnham to Mr. Thomas Ball, of Florence, Italy, whose previous portraits of Mr. Webster both in painting and sculpture had won fame for the artist. It was intended that the statue should be erected in time for its unveiling and dedication on July 4, 1876, but unforeseen delays in the execution of the work necessitated the postponement of this ceremony which took place on the 25th of November of that year.

The presentation was made by Mr. Burnham and the gift was accepted in behalf of the city by Mayor Wickham. Two addresses then followed, one by Mr. Evarts and the other by the Hon. Robert C. Winthrop of Boston.

Mr. Evarts, "with the laurels of the Centennial Oration at Philadelphia still fresh on his brow," as Mr. Winthrop expressed it, made the address that follows.

#### ADDRESS

*Mr. Mayor and Fellow Citizens:*

I congratulate you, Mr. Burnham, upon the prosperous execution of a noble purpose. You did me the honor, in meditating this grand gift to the city and to the country, to ask my concurrence in this munificent act. I know that it



proceeded, in your intention, from nothing but admiration of Mr. Webster, because he was a great servant of his country, and from your patriotism, that desired to perpetuate his influence in a form that should be as enduring and as eloquent as any preservation of his memory to his countrymen could possibly be. I congratulate you, Mr. Mayor, and the City of New York for the grateful and graceful performance of a duty now for the second and third time of receiving noble monuments to the fame of great citizens of this country, and the acceptance of permanent and impressive decorations of our public places. And you, fellow citizens, I congratulate upon the benignant sky and the genial air that in these last days of November, so apt to be the saddest of the year, have for this occasion given us the brightness and the joy of opening spring. I congratulate you more deeply, that you and your children, from generation to generation, are here to renew the lessons of patriotism and of duty which Mr. Webster in his lifetime taught so wisely and so well. I congratulate you upon this evidence that public spirit does not fail in a republic. It has been the reproach of equal society that it bred selfishness, and it has been a maxim that munificence belonged to kings and to nobles, and that splendor and elegance and magnificence flowed downward, and could never be the growth of an equal society; but our history has in this, as in so many other things, falsified these maxims of our race. Where will you find wider and better, more numerous or more noble, instances of charity, of public spirit, and of contributions to the public taste and public enjoyment, than this republic of ours presents everywhere? And where will you find in other lands instances worthy to be recorded with this of Mr. Burnham, where a single citizen, doing his share as one of the people, for the good of the nation, has made and planned as great and noble a gift?

Mr. Mayor, on this occasion we find no need of distinct eulogy. Whoever speaks to any of our countrymen of Mr.

Webster, of his life, of his public services, of his genius, and of his fame, can tell them nothing new, nor can he hope to enlarge or deepen their admiring homage which attended him through a whole generation in his lifetime, and in the quarter of a century that has passed since his death has hallowed his memory. Nor, were it otherwise, would anything but the briefest commemoration and the simplest eulogy befit the occasion. This noble restoration of his imposing presence, and the solemn echo which arises in every mind, of the last words which passed his lips, "I still live!"—these speak to us to-day; and all other oratory is superfluous. There he stands, as he stood for a whole lifetime of assured fame, in the full blaze of a whole people's attention, crowned by his Maker with glory and honor—as he stood in the courts, in the Senate, in the popular assemblies, at the helm of state, amid the crowds that followed his steps in every public concourse. And yet I could not but yield, Mr. Burnham, to your request that I should share with Mr. Webster's friend, and our friend, Mr. Winthrop, in bringing to attention some of the principal traits of Mr. Webster's character, some of the prominent instances of his great public services.

My first knowledge of Mr. Webster, in the way of personal association with him, occurred just as I was leaving college, and he in 1837, was making that remarkable progress from the Capitol at Washington to his home in the East, on which his steps were delayed in every city by the instant demands of the people that they should see him and that he should speak to them. I had, as a schoolboy in Boston, been familiar with his person as that of the principal citizen of that place, but in after-life it came to be my fortune to be associated with him in public relations only during the last few years of his life. I can bear testimony that without arrogance, yet full of dignity, he never sought to enhance, but always to lessen, the imposing influence which his mien and his fame impressed on everyone. The kindness of his man-

ner and his affectionate attention to every claim made upon his duty or his favor, none who knew him will ever forget; and if my voice now can for a moment recall more nearly than the general recollection of his countrymen might do, what was great and valuable in his character and in his public service, it is an office both of affection and duty that I should so do.

No one brings to his thoughts the life of Mr. Webster without instantly dwelling upon the three principal great departments of highest influence in which he moved, and where he showed his power, and shed in a shower of beneficence upon his countrymen and their institutions the great effulgence of his intellect and the warmth of his patriotism. I mean, of course, as a lawyer, as a statesman, and as an orator. No doubt, in the history of the country, names can be recalled which, considered singly and simply in relation to what makes up the character and authority of the lawyer, may compete with or may surpass Mr. Webster. No one can divide with Chief Justice Marshall the immense power of judicial penetration which he maintained through a life lengthened beyond eighty years; and eminent men of learning, of weight, of authority with the profession and with the public, may be named that at least occupy, in the simple character of lawyers, for learning and judgment, as elevated a place as Mr. Webster. But I am quite sure that there is not, in the general judgment of the profession nor in the conforming opinion of his countrymen, any lawyer that, in the magnitude of his causes, in the greatness of their public character, in the immensity of their influence upon the fortunes of the country, or in the authority which his manner of forensic eloquence produced in courts and over courts, can be placed in the same rank with Mr. Webster.

As a statesman, we must include in our mention as well the character and the part of the party leader, as that of the guide and guardian of the public interests in the more

elevated plane of the councils of the country. And in this, whatever we may say of the great men who, at the birth of the nation and in the framing of the Constitution, and then, with lives prolonged, attending the first steps of the progress of the new-born nation, established their own fame and contributed to the greatness and the safety of the country, we shall find no man in our generation—no man coming down to our generation from that preceding one—who has held such a share of influence in the popular assemblies, in the counsels of the party, in the State, or in the Senate, or in discharge of the duties of a minister of State, who can at all contest with Mr. Webster the pre-eminent position of the statesman of the whole country, for the whole country, and in results which the whole country has felt.

And then, when we come to oratory, he combines the intellectual, the moral, and the personal traits which make up that power in the nation, which gave to one Grecian above all others of his countrymen—Pericles—the title of Olympian. Who so much in our time and in our nation has combined all those traits, so often severed, as Mr. Webster? Whether he lifted his voice *mirum spargens sonum*, in the Court, or in the Senate, or at the hustings, or in the oratory of public occasions, and to select audiences, he spoke as one having authority with his people; and that authority was always recognized and always obeyed.

To these three recognized and familiar departments of his pre-eminence we must add a fourth—his clear title in the sphere of literature to be held as one of the greatest authors and writers of our mother-tongue that America has produced. We all recognized the great distinction in this regard of Burke and of Macaulay. In the flow of their eloquence as writers, and in the splendors of their diction, Mr. Webster did not approach them, nor would he have desired to imitate them. But I propose to the most competent critics of the nation, that they find nowhere six octavo volumes of printed literary

production of an American, that contains as much noble and as much beautiful imagery, as much warmth of rhetoric, and of magnetic impression upon the reader, as are to be found in the collected writings and speeches of Daniel Webster.

But, fellow citizens, as a citizen and as a patriot, Mr. Webster was greatest in the opinion of his countrymen in his life, and greatest in the judgment of posterity since his death. What are all those mere gifts of intellect, however vast; what these advantages of person, of education, of position, and of power in the country, if their possessor fails or falls short in his devotion to his country, and in his service to the State? And he that will look through the preserved, recorded evidence of Mr. Webster's life, will see at once that, from his youth to his death, he was as full of public spirit and as full of public labors, as if his life had not been busy and important in its private, professional, and personal relations. He served the State, and labored for and loved it from boyhood up. He withheld no service, he shrunk from no labor, he drew no nice distinctions as to opportunities or occasions. Whenever a word was to be spoken, and could be usefully spoken, to the American people, in the lecture room, on the anniversary occasion, in the public assemblies, in the cities and in the country, on excursions and progresses through large stretches of our territory, North and South, East and West, always, on an elevated stage, and in a conspicuous cause, he gave his great powers to this service of the people.

What could exceed the breadth and generosity of his views, the comprehensiveness, the nationality, of his relations to the people! Born in the northeastern corner of New England, the northeastern corner of the country, seated for the practice of his profession and for his domestic life in the City of Boston, on the very outside rim of our country's territory—I defy anyone to find, from the moment he left his provincial college at Dartmouth, to the time that he was buried on the

shore of Marshfield, a time when that great heart did not beat and that great intellect did not work, for the service equally of all the American people, North and South, East and West. We do not find all the great men of this country thus large and liberal in the comprehension of their public spirit, thus constant and warm in the exercise of patriotic feeling. I cannot even allude to the immense and the frequent public services that Mr. Webster performed; but I have this to say, that I would rather that the men and the youth of this country should read the peroration of Mr. Webster's speech in reply to Hayne, and the peroration of his speech for the country and its peace on the 7th of March, 1850, than any equal passages in all the text-books and all the oratory of our politics from the time he died until now. I would like to have anybody that has been instructed by the last twenty-five years see if he could portray the evils, the weaknesses, the woes of nullification under the Constitution, the wretchedness and the falsity of the claims and schemes of peaceful secession, better than Webster could do and did do in advance. I would like to see one touch of art, one word of eloquence, one proof or reason that can be added under this stern teaching of a quarter of a century, that is not found in those great speeches now. His countrymen questioned him, his countrymen maligned him; but it was his country that he loved, and he would not curse it for anybody's cursing him.

On Boston Common, in July, 1852, just before his death, when he stood in the face of Boston people, whom he had served for thirty years, he used these words: "My manner of political life is known to you all. I leave it to my country, to posterity, and to the world, to see whether it will or will not stand the test of time and truth." Twenty-five years of our history have shed a flood of light upon the past, and emblazoned anew the records of Mr. Webster's public life. I shall not rehearse them, but I say this to you, and I challenge contradiction, that from the beginning to the end that

record is true to the great principle that presided over the birth of the nation, and found voice in the Declaration of Independence; that was wrought into the very fabric of the Constitution; that carried us, with unmutilated territory, and undefiled Constitution, and unbroken authority of the government, through the sacrifices and the terrors and the woes of civil war; that will sustain us through all the heats and agues which attend the steps of the nation to perfect health and strength. The great principle embossed in enduring granite on this pedestal, and from the time it was announced from those eloquent lips, is firmly fixed in the consciences and hearts of this people: "Liberty and Union, now and forever, one and inseparable."

The great names of our Revolutionary history—the signers of the Declaration of Independence, the framers of the Constitution, the wise men who, surviving from that generation, confirmed the progress of the country under its Constitution and its new liberties—no American will allow their fame to be disparaged or divided; and of the men that followed them up to your time, how many do you owe great obligations to! How much to Clay and Adams! How much to Jackson and Wright! How much to Seward and Chase, and all their contemporaries! But if I were to name two men whose services were incomparably above that of all others in making this new experiment of free government and of a paper constitution a living power to a great and strenuous nation—two that could not have been spared, though all others remained—I should say that to the great Chief Justice Marshall, and to the great forensic, popular, parliamentary defender and expounder of the Constitution, Daniel Webster, we most owe what we now enjoy. Who shall deny to him the title "Of our constituted liberties the greatest defender"?

And now, what shall we say of this great man in the personal and private traits of his character? I should say of Mr. Webster that, if there were one single trait conspicuous

in him and pre-eminent as compared with others who have made for themselves great names in history, it would be the abundant charity of his nature. He never assumed for himself in private intercourse, or in public speech, any superiority. He never tolerated in his presence, and he never practised, either evil speech or evil surmise. His frown followed even their casual introduction about the table and in public discussions, and he never tolerated any confusion between intellectual dissection of an argument and moral inculcation of the reasoner. I do not know that one should question ambition, for it is the public passion by which great public talents are made useful to a people. But I will say of Mr. Webster, that he seemed to me never to have any ambition but that which is an inseparable part of the possession of great powers of public usefulness, but that which is sanctioned by the injunction that great talents are not to be buried in the earth, and by the requirement that the light, which God has given that it should shine before men, is to be placed on a candlestick.

And now within the narrower circle, not ill-represented here in the crowd before me, and on this stand, of those who enjoyed close and friendly intercourse with Mr. Webster; who knew, better than the world knew, the greatness of his powers and the nobleness of his nature—shall we be guilty of any disrespect to the living, shall it not be pardoned to affection, if we say that the associations with those who survive seem to us but little, compared with the memory of him whose friendship we remember, and whose fame we rehearse? *Eheu! quanto minus cum reliquis versari, quam tui meminisse.*



## VIII

### ADDRESS AT THE INSTALLATION OF "CLEOPATRA'S NEEDLE," THE EGYPTIAN OBELISK, IN CENTRAL PARK, FEBRUARY 22, 1881

#### NOTE

Mr. Evarts, by reason of his official station at the time, as Secretary of State in President Hayes's cabinet, was invited to take part in the ceremonies attending the installation upon its site, in Central Park, New York, of the Egyptian obelisk, which had been presented to the United States by the Khedive of Egypt. Upon this occasion he delivered the following brief address. It is taken from the report in the *New York Tribune* of the day following.

#### ADDRESS

*Ladies and Gentlemen:—*

I responded with pleasure to the call of the committeemen to take such part in the installation of the obelisk, as they, in their judgment, thought acceptable. My relation to the occasion, my service before you, is naturally and necessarily mainly official and ceremonial, for I have had no personal share in the first structure of this obelisk, or in any of its movements since; and in the great transaction, so creditable to ourselves and our day, by which it has been acquired, by which it has been transported, and by which it has been placed on its site, I have had only an official and almost only a ceremonial share.

I think it is something like twelve years ago that one of our distinguished fellow citizens,\* at the head of one of the principal journals of the country, being in the Mediterranean on the occasion of the opening of the Suez Canal, and falling into the company of the Khedive, learned from him that

\* William H. Hurlbert of the New York "World."

there was no insurmountable obstacle, in Egyptian mystery, or in Egyptian pride, against an obelisk being sent across the ocean, if only an obelisk were capable of making the voyage. This idea, cherished for some years, at last began to put itself in the course of execution; and in the first year, I think, of my administration of the Department of State some preliminary considerations on the subject were taken up; but it was not until the visit of our excellent and faithful Consul General in Egypt, Mr. Farnham—his visit to this country in 1878—that the full information was gained here of the steps necessary, the prospects of success, and that full instruction was given to him on the part of the government as to his action in reaching the desired end. From that, the stages were easy and rapid, and in May, 1879, Mr. Farnham informed the State Department that the consent of the then Khedive had been given to the transaction, and your distinguished fellow citizen, Mr. Stebbins, was acquainted with the success of the measure, to which, from the beginning, he had lent his name and influence.

Thus it seemed as if every difficulty were overcome, so far as the good-will of the Khedive and the acceptance of the offer by our government of the transfer were concerned. But by one of the vicissitudes of government which happen in this land of Egypt, the Khedive suddenly abdicated, leaving his gift incomplete; and he left the country leaving the obelisk behind him; and there was some solicitude whether the incomplete gift would be assured to us by the approval and ratification of his successor. By the careful and faithful efforts of Mr. Farnham, notwithstanding some obstacles from jealous nations, which thought it a shame that that hemisphere should not hold all the obelisks, even if Egypt were despoiled of them to grace their own capitals, we at last arrived at a conclusion.

Then, in searching for an agent who had courage and skill and the knowledge of the sea, competence in the judg-

ment of others, and confidence in his own ability, we were fortunate in finding in an accomplished officer of our navy, Commander Gorringe, a man wholly fitted for the achievement; and when I asked the Secretary of the Navy to allow him a leave of absence, and desired to know whether his previous record had been such as that this great work, with all its risks and perils, could be intrusted to him, I had but one brief answer—that all the men said that whatever Gorringe undertook to do he would accomplish. Whether or not that was as well deserved a reputation then as I supposed it to be, I think that a wider circle of observers and a generous testimony of his fellow citizens will now give warrant that whatever Commander Gorringe undertakes to do he will accomplish.

Captain Gorringe reached Alexandria, I think, on the 21st of October, 1879. He procured a vessel, planned the opening in her side, on her bow or her stern, whichever was most useful, in order that the obelisk could be trundled into it on cannon balls. He closed it, left the port, I think, about June, 1880, met with a disaster at sea, that was enough to wreck the vessel had he not been provided with an extra shaft to supply the place of the broken one, on the 6th of July, and reached here sometime, I think, about the 20th. Then the labor of the last passage was incomparably greater than that of the transfer across the Atlantic; and by slow stages, traveling up our crowded thoroughfare, the monolith reached the position to be elevated on its present pedestal on the 22d of January last. The pedestal had been laid, the laying of its corner stone being accomplished by imposing ceremonies, under charge of the Masonic institution of this country—the institution finding interesting records, as is understood, in what can be found on the face of this monument, to show that a free and accepted class of Masons existed in Egypt 1800 years ago.

Now the communication of these facts leaves only one thing to be added, and that is, that an obelisk cannot work its own passage across the Atlantic and somebody must pay for it. The suggestion, made to a certainly very public spirited fellow citizen, and one furnished with abundant means to carry out whatever he should undertake in a financial direction, received from Mr. William H. Vanderbilt a generous promise that the expenses of the undertaking he would bear, desiring his name not to be mentioned until at least a stage should come when it could properly be announced. I regret that his presence, expected here to-day, we are deprived of, by some casual infirmity which detains him from us. This, then, is the voyage of this obelisk, the expense showing, I think, as well the munificence of the giver as the great advance, both in opportunities and plans, of such a transportation, and the great skill and energy and economy of Captain Gorringe in the transaction. The expense of the transfer just passes \$100,000, and Captain Gorringe has contributed his services as a part of the great adventure.

This is not the first obelisk that has left its home in Egypt to seek new scenes, but never before, perhaps, has the transfer been as voluntary on the part of the Egyptian government. These obelisks, great and triumphal structures, having for their inscription in the main nothing but the official pomp of their founders, mark the culmination of the power and glory of Egypt in the ancient kingdom; and every conqueror has seemed to think that the final trophy of Egypt's subjection and the proud pre-eminence of its own nation could be shown only by taking an obelisk, a mark of Egyptian official pomp and pride, to grace the capital of the conquering nation. The first was taken by the conquering Assyrian, a monarch of great mark in his time and remembered through all ages since—known better to us and more easily, by his Greek name of Sardanapalus. He took an obelisk to Nineveh, the capital of Assyria, when that empire was the

mistress of the world; and that movement was indeed a movement which embraces many of the important incidents of even a great voyage like this which our obelisk has taken. Although there are no records of the precise method or route of transportation which the Assyrian took for his obelisk, yet it is very apparent that as it must have been water-borne, it was taken to the Red Sea, then down the Red Sea into the Indian Ocean, then up the Persian Gulf to the mouth of the Euphrates, and thence to Nineveh, beyond the navigation of the river. This route, speaking roughly, must have included some fifteen hundred miles of journeying, and we are somewhat at a loss to understand how the method of vehicles for such a transportation could have existed in that age, we have so little record of them. But as the obelisk undoubtedly got to Nineveh and could not go across the desert by land, it must have made this circuitous route for upward of fifteen hundred miles.

The next conqueror that assumed to take obelisks from Egypt was Rome in the time of the emperors. They took as many as fifteen, one after another, and twelve now remain in Italy. This brings us to the period close upon the Christian era; and in the time of the famous Julius Cæsar, and on through his successors, Egypt, subject and abject, yielded up these treasures of its art and of its pride to a conquering spoiler.

Next came the empire with Byzantium as its capital; and it, too, demanded from the wealth of Egypt the new contribution of an obelisk, to mark the domination of this city. Byzantium, now Constantinople, contains the obelisk then taken; and this closes the transactions, or transportations, in ancient times. All subsequent movements have been within this century. The French and English, as we know, made Egypt a battlefield at the commencement of this century. Egypt, recognizing its obligations to England, as early as 1819, had offered an obelisk to England, the great

power of the earth. But the difficulties of transportation, and the expense, seemed so serious to the mother country that that gift remained lying on the sands of Alexandria; nor was any movement made for its transfer until the year 1877—completed in 1878. The height of English ingenuity and experience in architecture of naval vessels, in navigation and in engineering, had only taught the English that an obelisk could not be carried in the hold of a ship; and the experiment was made of building a vehicle around the obelisk that could float it and itself and be towed by a steamer—giving this abundant opportunity of safety, between the sinking of the obelisk and the sinking of the tow; the tow might cut loose from the obelisk and leave nothing therefore for the chance of loss of life. The experiment was not such as to encourage imitation by us, even if Captain Gorringe had not had that faith in a ship which had been his cradle from his youth, that if it could carry all the men and all the armor and all the cargoes with which modern civilization burdens ships, it could carry an obelisk. The caisson, or whatever it was called, in which the English obelisk was enclosed, was abandoned in mid-ocean, and the experiment was delayed for fifty years and more from the time the gift was made, until the courage and the skill were present to undertake it. Some adventurers at sea picked it up, brought it into London, took it into a court of admiralty, and received five thousand pounds for executing what the original arrangements had failed to do.

The French obelisk was given in 1823 or 1824, by the Egyptian government, doubtless in execution of a readiness on their part to favor the plan of Napoleon, to make that transfer as a part of his triumph to ornament his capital. In 1831, just fifty years ago, Louis Philippe undertook the transportation, and placed the monolith where so many good Americans have seen it in Paris, in the Place de la Concorde. It is noticeable that the expense of this transfer across the Mediterranean, or around by the Bay of Biscay, whichever

way it went, was nearly \$500,000, quite five times as much as our enterprise, under the lead and execution of Commander Gorringe.

And now our obelisk is here. What is our obelisk, and how came it here, what shall it teach us, and what shall we show it while it remains with us? This obelisk, one of two, at the Temple of Heliopolis, a few miles from Cairo, was one only of the numerous structures of this character that the great King Thothmes III raised in glory to himself, and honor to his God. Great temples, great monuments, in other forms as well as in obelisks, mark his reign. He was the greatest king that Egypt had ever seen. He had united Upper and Lower Egypt in one kingdom; he had, if we may believe his inscriptions, by conquering other nations, extended the Egyptian frontier to the "tip ends of the earth." He was a patron of art, a lover of learning, had all the kingly virtues, full of devotion to religion, faithful to Egypt—a magnificent king and conqueror. He was of the age that saw the exodus of the Hebrew from Egypt; he was of the age in which Moses was born. He compares, in the long line of history, with the greatest conquerors of the world; with Alexander, with Cæsar, with Napoleon. He lived at a stage in society, at a period in the world's advancement, when the gulf between the king and the people was vast, and in the same proportion in which he was grand and magnificent they were abject and worthless. This obelisk, then, standing there in front of that temple for fifteen hundred years, saw all the famous men of other countries seek the learning of the Egyptians in this temple, as the great school resorted to by the renowned statesmen and philosophers of the ancient world. Undoubtedly here, passing under the shadow of this obelisk, Moses came to know all the wisdom of the Egyptians. In this same temple, Solon and Plato learned the wisdom that made them the benefactors of the world. Now, the transfer to Alexandria was to grace the triumph and illustrate the su-

premacý of the Cæsars. Cleopatra has got more credit for this needle—for this has been called "Cleopatra's Needle"—than the facts of the case warrant. It was not erected in front of the Palace or Temple of the Cæsars at Alexandria until six years, I think, after her death; and whatever the glories may have been which Cleopatra and the Cæsars shared together in the Egyptian splendor of those days at Alexandria, this obelisk and its contemplation were not among them. But yet it formed a part of the Roman splendor and domination in Egypt, and while they took as many as they pleased, fortunately this was left as being associated with Roman glory in Alexandria, in front of the Palace or Temple of the Cæsars. The other was thrown down, but this one stood wherever it was placed, from the time it was so placed, until, standing, it was taken down to be removed. This, then, is the genius of this obelisk—a faculty of staying where it is put. It never has been prostrated by time or casualty; it never has been broken by clumsiness or blunder; it never has been out of good hands; first, of Thothmes and his engineers; second, of the Cæsars and the Roman skill; third, of Mr. Hurlbert and Mr. Stebbins and Commander Gorringe and Mr. Vanderbilt.

What, then, is the lesson, what the teaching, that this obelisk is to give us? Hitherto, in ancient times, as each one was transferred from its home in Egypt, at the height of the strength and the pride of the nation that took it as spoils, the obelisks have looked down and waited not in vain for the same ruin of the then dominant strength which they had witnessed in Egypt. In the sight of the obelisk, Rome, the mistress of the world, was taken and sacked by the Northern barbarians, its empire broken, its learning, its civilization obscured, and its power as an empire never again restored. So, too, Bysantium yielded to the Turk, and the tide of Asiatic barbarism rushed in upon that great scene of splendor which an obelisk alone was indeed to witness. The obelisks



are there, but the change has taken place. Assyria before this time had fallen as an empire, and by successful conquerors had been trampled in the dust; Persia ceasing to be a power of magnitude, now for centuries, still holds the obelisks—if you could only find them, for they have been overthrown and buried in the ruins of Assyria, which have hidden them from all modern exploration. Sooner or later, then, in the experience of ancient times, obelisks have had their revenge, if they cherished any affection for Egypt, and felt any humiliation in her degradation and their transportation.

If these obelisks could only perceive everything on which their shadow falls, if they could only remember all that they perceived and only narrate all that they remember, what teachers they would be! How they would humble the pride of the short-lived race of men that creeps about, at their feet! How they would smile at modern strength and glory and at the pride of a hundred or a thousand years, as indicating the strength, the promise, the endurance; how they would say: "Whatever else may be the form through which the civilization and the population and the government and the power of nations are to pass, there is one common grave of ruin, in which they are all to be buried."

Now we come to the obelisk in modern times and see what has happened even in the brief time—half a century—in which one of them has stood in the great Place de la Concorde, taken there by the French monarchy. In fifty years it has seen that monarchy fall before the empire, and that empire yield to the republic. But observe how little these forms of government, how little these great men of the earth, are in the nations of modern civilization. How has France been injured? There are no ruins there. The pride of domination in a dynasty has fallen; but France, greater, richer, freer, more powerful and more prosperous than ever, stands the same; and this obelisk on the great place of Paris has seen only these little perturbations, without one stone having

been thrown down from another in the great structure of the French nation.

The obelisk in England has not been there long enough to see anything but the Irish agitation, which does not shake the pillars of empires or the prosperity of the great mother country, and while we will feel solicitude and sympathy with every form of difficulty and suffering, and oppression if you please, yet it is ever a matter of pride to us, that next to ourselves, the mother country, with her proud place among the nations of the earth, is dear to the people of this land. But you will see at once, that in England, any transformation of the authentic forms of seated power would pass for little. It has been a long time since the institutions of England depended upon its monarchy; it has been a long time since the monarchy has formed one of the flexible institutions of that country.

Now, what shall we say of the prosperity, and assurance, by which we may hope, in our system of society, in our system of religion, in our system of government. to outlast the obelisk, if the obelisk is waiting for our ruin? At the very time that Thothmes was rearing these great monuments of his power, a feeble Hebrew infant, doomed to death from his birth, uttered a feeble cry amid the bulrushes when the daughter of Pharaoh disturbed his sleep. And Moses has come here, long before this obelisk; Moses, the greatest law-giver that the world ever saw; Moses, with his ten commandments, is in possession of the churches and of the schools and of the literature and of the morals of society. Egypt is perpetuated not only here, but throughout our system of civilization, by the cry of the infant Moses, which has been expanded into a voice spreading over the whole modern world.

Twenty-two years after this obelisk was raised at Alexandria, to mark their perpetual dominion, there was born in the neighboring and subject province of Palestine an-

other infant, destined also to death. Christ the Savior, born then, has been a power and a light before which all kings and conquerors, all dynasties, all principalities and powers have fallen in obedience. Before this obelisk from Alexandria reached our shores we had heard of the name of Christ, and the morality of Moses and the religion of Christ made a basis for civilization, for society, for national strength and national permanence, which will last forever and forever, and be prevented from being overthrown by any of the causes that overwhelmed dynasties and ruined nations. I do not know but that you may become weary of well doing and may learn to scoff at Moses and the prophets, and fall away from the name of Christ; and yet these obelisks may ask us: "Can you expect that you will exist forever? Can you think that the soft folds of luxury are to wrap themselves closer and closer around this Nation and the pith and vigor of its manhood, knowing no difficulties? Can age creep over you and your Nation, knowing no decrepitude?" These are questions that may be answered in the time of the obelisk, but not in ours.

## IX

### ADDRESS AT THE MONETARY CONFERENCE IN PARIS, 1881

#### NOTE

Upon the retirement of Mr. Evarts as Secretary of State, in March, 1881, President Garfield appointed him as head of the delegation to represent the United States at the International Monetary Conference to be held in Paris in May of that year. His colleagues upon this mission were Mr. Timothy O. Howe and Mr. Allen G. Thurman. The policy of the government at that time was for the international establishment, if possible, of a bi-metallic monetary standard. At the close of the first session of the conference Mr. Evarts delivered the following address, to which he gave the title, "What America Asks from Other Nations."

#### ADDRESS

*Mr. President and Gentlemen of the Conference:—*

The first disturbance in what was a satisfactory condition in the working of the money market of the world—become so by either a fortuitous or a circumspect consent which had obtained between the nations theretofore—the first disturbance in that condition of things grew out of the debates, and came as a sequel, of a conference that really had no function or duty in the matter which we now discuss. The Conference of 1867, meeting for and undertaking to treat that important consideration of convenience and utility, the unification of the coins used in the computations and the transactions of the world, naturally, under a scientific, a mathematical, a symmetrical consideration of the subject, felt that if there were but one metal money in the world it would be easier to have a universal system of coinage. Bent, with the zeal of their work, upon accomplishing that secondary result, and finding that the reduplicated impediments grew out both of the use of the two metals and of the

great diversity of coinage in the two, they thought that the way to get at a unity of coinage was to have but one metal in the service of the world for its money. This was a clear subordination of the end to the means; this was a sacrifice of money that could not be spared in its volume and in its force, in order that the symmetry of the mintage might be more conveniently attained. This was in the nature of a sacrifice of the great and manifold transactions of an open commerce to the convenience and the simplicity of the bookkeeping which records it.

Unluckily, this scientific appreciation fell upon two great countries under circumstances which hid, perhaps, from their eyes the mischiefs, and made of less consideration the responsibilities of an effort toward the demonetization of silver. Germany, interested in its own unification—the great political transaction of our age—found political reasons why the unity of money in Germany was of great importance to the unity of society and of the State. Then this unhappy idea, that as the diversity was most in the silver, and the habits, antagonisms and preferences of the people were most involved with the silver, if you would unify the money by having only the gold, the empire with its golden currency would easily master the suppression of the diversities of the inferior coinage. In the United States these ideas of the Conference of 1867 reached us when we were using neither silver nor gold, and when the public mind was inattentive to the consideration of so intimate, so comprehensive, so universal an influence upon all the interests of a state as a change in their money might exert. In the presence, then, of the fact that neither silver nor gold was the practical and present money in our daily use, the money in which we, to the common apprehension, had to accommodate our relations to the other nations of the world, the movement took place, by the Act of 1873—a coinage act, as I understand it to have been—which, under

this unlucky incident of regulating coin, has seemed to suppress one half the intrinsic money of the state.

In 1878 the United States, looking back upon their grave experience in relation to disordered money, looking forward to the great restoration of the firm footing of money on a metallic basis, which they had planned by legislation, and to which they were shaping their financial energies, and seeing that the question whether our currency at home could be made stable and safe in its relation to intrinsic money, and whether we could, in the anticipated renovation of our commerce, for which we were preparing, hold that share of the intrinsic money of the world that was necessary for our transactions of domestic traffic and foreign commerce—in this situation, I say, the United States came to the conclusion that, as there never had been a time in history when both silver and gold had not been necessary and been used as money, as there never had been a time in history when their united strength was more than adequate for the unfolding progress of society, so, above all things, at this age and in the actual circumstances of the world was this true. In the immense development of representative or secondary money, in the immense expansion and the international relations of commerce, and in the multiplication of the daily uses of money brought about by rapid transportation and telegraphic communication, the attempt at a permanent basis for our domestic circulation and for our participation in the commerce of the world upon less than the broad basis, the united strength, firmness and fixity of the two metals, seemed a vain hope.

This led to our legislation of 1878. You will readily understand that, in face of the movement in Germany, in face of the disorder apparent in the Latin Union system, in face of the discrepancy between the Indian circulation and the home circulation of England, it was not for the United States, however firm their faith, however assured their prin-

ciples, to throw open their mint, as the only one in the system of Western nations, to the free coining of silver. We undertook then its limited coinage, we gave the coined dollar full legal tender faculty, but the mutation of the metal into coins was reserved to the government. This method did not accredit silver as entitled to be turned by its owners into money by the stamp of our mint, but allowed only an acquisition of the bullion and the conversion into coin by the government on its own account. It is not necessary for me to allude to the diversity of political or economic opinions which led to the bill taking the precise form it did. That it did not overlook, that it was made in full appreciation of, an international situation, is proclaimed by that clause in the bill which provided for the calling by our country of a conference of nations on their monetary system. The problem that was too much for any one nation—the problem of a fixity of a ratio between silver and gold which should make one money out of the two metals for all the world—was to be made the subject of joint consideration by the nations most interested in that problem. The nations took at least no offence at this invitation, and the politeness of the French government gave us all the hospitality for that Conference that they could have accorded to it had it been called by France. But what was that Conference in its attitude either of hope or fear? What conclusion, what result, flowed from it? Germany was not represented at all. England was present in the body, but absent in the spirit. France and its group of nations occupied only an expectant attitude. The United States found—to their appreciations, to the arguments by which they supported them, to their warnings, to their fears, to their hopes—no response that, by way of action or by way of assurance of action, they could carry home as a result. But we did obtain from the Conference this conclusion, this concurrent sentiment—that, if nothing could be done or promised in the direction which

we desired the movement to take, nothing could be tolerated in the opposite direction; that the united nations entertained a hope that natural causes would bring a reaction to set things right, and that their best wishes for so desirable an end would accompany any efforts that the United States or any other Power might make to relieve the situation from its admitted difficulties and dangers.

The United States government was not disturbed in its convictions nor swerved in its conduct by the imperfect treatment which the subject received from that Conference. It has gone on with its coinage, resumed specie payments, has had an unbroken progress in prosperity, in wealth and in its greater and greater mastery of the money question. It is disturbed by no new troubles at home, but it has waited until the mischiefs of disordered money should make themselves more apparent to the appreciation, or at least to the responsibility, of the European nations. And now how different an aspect from that of the former Conference does this assemblage, which I have the honor of addressing, present to-day to the nations of the world! Germany is represented. Germany exhibits an appreciation of the disastrous outlook, and its desire that the money of the world should be put upon a better footing. Germany gives good wishes and sympathy toward the success of any such movement. But Germany, besides, proposes to take, by such means as are within its competency, in deference to its domestic affairs, some share of the burden, to bring some force toward the energy which is to furnish relief, some contribution toward the result aimed at. I gather that when a great power like Germany sees an object to be desirable, commits to it its good wishes, gives it its sympathy and promises its contributory aid, it is committed to the success or the failure that may attend the movement. It is not for a great power to desire, to applaud, to approve, to give help to a movement among the nations and then to have it fail. It is not



for a great power, in a common object, a common benefit, to be satisfied to contribute inadequate, inappropriate or unseasonable means. Great Britain, for India and for Canada, presents most effective concurrence and most important aid in the propositions and in the movement which we have at heart. For itself, in words not of mere courtesy, but of substance and sincerity, Great Britain says by its own delegate that it will lend an interested ear, give a responsible attention, to whatever this Conference shall propose. France, no longer expectant, is in full accord with the United States in the promotion of the Conference, in the matters, in the purposes, in the principles, in the *sine qua non* upon which success depends. All the other nations are represented by able advocates and experienced men of affairs, who take an active part in the deliberations on the mischiefs, in an estimate of the methods of their cure, and show in all things a purpose to conciliate and not to aggravate differences of opinion or policy and to reduce the opportunities of discord. When the United States, too, presented itself at the last Conference, the aspect in which its participation seemed most to strike men was that it was in promotion of interests that might be natural and honest, but were limited and special—I mean its production of silver and considerations connected with its public debt. The magnitude of this debt, the necessity of its payment by what was the money of the bond, that is, by the silver or the gold money of the United States of ascertained weight and fineness, raised the suggestion that the performance of that obligation was expected to be assisted by remonetizing silver, by placing what was called the inferior metal, the cheaper metal, at the service of the government in the maintenance of the public faith.

Well, the representatives of the United States at the former Conference met and answered those suggestions, and the course of things in the United States since has dispersed

all imaginations, even of their special or sinister objects in the matter, into thin air. The question now put to us is—as is obvious everywhere in the progress of this Conference—the question now put to us is, “Why is it that in your wealth, your strength, your manifold and flexible energies and opportunities in the conflicts and competitions of the system of nations represented here, why is it that you feel concern for mischiefs which carry no special suffering or menace to you or anxiety as to the methods of their cure, when you are so free-handed as to the methods and resorts of your choice? Why should these evils that have grown out of a short-sighted and circumspect policy, as you (the United States) think, why should you so persistently call upon all the nations to unite, and put yourselves, as it were, on the same footing of danger and solicitude with them?” The answer on our part is simple and honest. It needs no ingenuity to frame it, and it asks no special courtesy or confidence on your part to believe it. It is our interest in the commerce of the world; and we consider no question of the money of the world alien from that interest. Why should we not feel an interest, and an urgent interest, in the commerce of the world? We are seated on a continent, so to speak, of our own, as distinguished from Asia and Europe. We are nearer to Europe and to Asia than either is to the other, and if there is to be a great battle between Eastern and Western commerce and a public and solemn war declared between the silver of the East and the gold of the West, who so likely to make the profit of the interchange between those moneys, and necessarily, therefore, of the interchange between the commodities that those moneys master?

But there is another striking position of our country, not geographical. It is that we more than all nations, perhaps first of all nations, in the history of the development of commerce, that our nation holds, in either hand, the great

products of staples, of raw material, and the great, the manifold, the varied products of skilled industry, which we have developed and organized, and in which we contest with Europe the markets of the world. We propose to furnish the products of our agriculture, which feed in so great share the laborers of Europe and the machinery of Europe, as inexorable in its demands as the laborers, and we propose also to deal with the world at large in the skilled products of industry in every form applied to those raw materials, and prosecuted under the advantages of their home production. We contemplate no possibility of taking place with the less civilized or poorer nations, to sit at the feet of the more civilized and richer nations. We have no desire to place ourselves, on the side of skilled industry, in the position of a superior nation to inferiors, though they may depend on us for this supply. We occupy, quite as much as in our geographical position, in this aspect, toward the different forms of wealth, production, and industry, an entirely catholic and free position, having no interest but the great interest that all nations, as far as money is concerned, should not be embarrassed in trading with us, and that we, so far as money is concerned, should not be obstructed in selling our raw products to the skilled nations of Europe, or the products of our industry to the consumers in less developed nations.

Besides this equilibrium of selfishness, which makes the general good our good, we are free from any bias in the matter of the production of the precious metals, trivial as that is in comparison with the immense and fervid march of commerce. We produce the two metals equally. Out of the same prolific silver mines even, the same ore gives us fifty-five per cent of silver and forty-five of gold. How could you imagine a nation in regard to its production of the precious metals more indifferent as to which is made the master of the world? It is a bad tyranny that we resist.

It is the possession of freedom and of power in the commerce of the world by the service of both these metals, in place of the mastery of either, that we advocate.

What, then, are the functions and service of money, not in the abstract, but in reference to the actual development of the industries and commerce of the world? What in the present and what in the near future are the conditions under which this office and service of money are to be performed? What are the impediments that exist either in the natural properties of the metals or in the habits, the associations, the repugnances, the preferences of mankind? What in its history, what in its institutions, are the embarrassments in regard to what as an abstract idea everyone must applaud and everyone must maintain to be a desideratum, a fixity of the unit of money all over the world? What, in a word, has already been done in the progress of affairs toward this desideratum? What remains to be done? What is there within the resources of courage and wisdom in the voluntary action of the nations? What is it competent, within the courage and wisdom of this Conference, for it to propose that shall accomplish, or shall promise, or shall tend to accomplish this great result of placing the money of the world abreast with its burdens and responsibilities and untrammelled in the discharge of them?

It is hardly necessary to recapitulate the principal duties of money, but they have always been of a nature that presented itself in a double aspect. From the time that money needed to be used in any considerable volume, and for any considerable debts among the advancing nations of the world, there never has been a time in which the money for man's use did not present itself in reference to its service and duties in two aspects. One is to deal with the petty transactions of everyday and neighborhood use, where the smallness of transactions required money susceptible of easy divisions; the other, for a transfer in larger transactions,

required money to be used in the mass and with a collective force, money that was capable of easy multiplication and of easy management in aggregate values. But, besides that, there soon came to be a use of money between the distant parts of one country and between distant countries, and so an opportunity for disparity in the treatment of money in these opposing aspects, with no longer a common sovereignty that could adjust them one to the other. In the progress, so rapid, so vast, so wide, of the interchange of the products and industries of the world, there came to intrude itself, more and more necessarily and familiarly, the elements of distance in space and remoteness of dates of beginning and closing transactions. These developments of commerce alone embarrassed both of these moneys in the discharge of their double duty, were there no exposure to discord between themselves. But long ago this ceased to be the limit of the trouble. The actual service of intrinsic money in the transaction of the petty traffic and the great commerce of the world, in providing for its own transfer from place to place, within a nation, or from country to country, across the boundaries or across the seas, made it impossible for the volume of both the metals that the bounty of nature could yield to the urgent labor of man to perform the task. Every form and device of secondary money, of representative money, which the wit of man could compass, and which could maintain its verity as money by its relation to the intrinsic money of the world, was brought in to relieve the precious metals from the burden under which, unaided, they must have succumbed. All these forms, whether of bills of exchange to run between country and country, or of notes or checks at home, or of paper money—all are but forms of credit. While, then, they relieve intrinsic money from the intolerable burden of actually carrying the transactions of the world, they burdened it, so to speak, with moral obligations which it must

discharge. All this vast expanse of credit in the developed commerce of the world rests finally upon the intrinsic money of the world, and if you would have fixity, unity and permanence in the credit operations of the world, there must be fixity, unity and permanence in all the intrinsic money of the world upon which that credit rests. This credit is, almost without a figure, a vast globe, and this service of the precious metals to sustain it is that of an Atlas, upon whom the whole fabric rests. The strength of both arms, nerved by a united impulse of heart and will, is indispensable; neither can be spared. Consequently, if there should be any considerable failure in their force, or any waste of it by antagonism between the metals making up the intrinsic money of the world, the credit of the world is deprived of what nature in supplying the two precious metals, and human wisdom in regulating them, together, are competent to supply for its maintenance.

In the deliberations of the former Conference and the agitation of the subject since in the several countries now engaged to concert anew some method for relieving the existing difficulties, all these general traits of the subject I have named, all these burdens, and all these essential ideas, seem, in the abstract, to be commonly accepted by the world. Nature has given and still supplies us with adequate material for our money as its share in the proposed transaction; reason has been developed, the power of government in the nations convened has been brought to its highest force, not of caprice or dominion, but of the expressions of the will and wisdom of the people themselves. With these resources for its correction, our first duty is to look at the nature of the evil and its extent. A very interesting and very clear-sighted examination of the subject, in this light, has been presented to us by the honorable delegate from Belgium, Mr. Pirmez. He naturally and wisely has thought that, as preliminary to the provision of means

for correcting the mischief, we ought to be sure that the mischief exists. The view presented with so much interest and force by Mr. Pirmez was to bring this into doubt and bid us to consider whether we are not really under some serious misapprehension respecting the gravity of the situation. A story is told of one of my countrymen that, alarmed at home by failing eyesight, and frightened into a dread of blindness, unwilling, even, to admit to his family or friends the possibility of such a calamity overtaking him, he took passage for Europe, to be able to consult the famous oculists on this side of the water on his disastrous condition without revealing it at home. The oculist relieved his fears at the expense of his intelligence. He assured him that so far from cerebral or nervous disease causing his difficulty and threatening him with greater calamity, all that ailed him was that he had reached a time of life when the sight needed to be reinforced by spectacles! Now, we delegates of the United States, it would seem, have come across to this Conference to learn that all our anxieties will be dispelled by the simple remedy of putting on Mr. Pirmez's spectacles. That, seen through them, all the disorders which had excited our solicitude will disappear.

But, after all, Mr. Pirmez is scarcely willing to treat the anxieties and fears of the nations as wholly chimerical. His division of the countries into three groups, whose distinctions he describes, at least admits a difference in the degrees of satisfaction and safety in which they may safely rest. Mr. Pirmez thinks that his first group, that is, the gold nations, are in all respects safe, secure, contented; that they see no reason to change and give no prospect that they will change. But, then, this group of gold nations really ends with the Scandinavian states, Sweden, Norway and Denmark, and with Portugal. Their repose and serenity, it is said, are due to their shelter under the protection of the gold theory. It seems to me, rather, that these fortunate

nations enjoy the happy position which Homer's famous simile has made known to mankind, of those who from a high promontory watch the naval engagement below in its dangers of battle and of shipwreck, secure against either. It seems to me that when he comes to apply his proposition of the gold basis being safety, it limits itself to those nations who, happily for themselves, are not largely involved in the strifes or vicissitudes which attend the vast transactions in which the capital, industries and commerce of the great nations are involved. No doubt their health, their repose, their serenity are just subjects of satisfaction to themselves, and of envy to their troubled neighbors. Nevertheless, their experience does not go far to solve the question whether resort to the gold standard will help those who need help. "They that are whole need not a physician, but they that are sick." When we turn from this ease and serenity to the discomforts and dangers that affect countries like England, the great gold nation, and Germany, the recent convert, it is admitted that there is disturbance, that there is anxiety, that there is dislocation, that there is need and that there is hope of an improvement in their money system.

Another of Mr. Pirmez's groups is that of the paper money countries, which includes two of the Latin Union states, Italy and Greece. These, too, are as much in repose and have as few solitudes, Mr. Pirmez thinks, as the Scandinavian countries, but for the opposite reason. For, if the first group, the Scandinavian, are in health, the second group, the paper money states, are in collapse. We have, then, nothing left but the great nations still holding specie payments, and struggling to master the problems both of money and commerce, which, he says are affected more or less, but not so much as they suppose. His explanation of our being disturbed and solicitous, that is France, the Latin Union, Germany, England and the United States



—for I suppose we fall within this group—is that we have still in our system the virus and the infection of the double standard. It is the legacy which we have inherited from that standard that mars the peaceful simplicity and harmony of action in our monetary affairs, the want of which makes us dissatisfied. This being so, Mr. Pirmez triumphantly exclaims: “If you are suffering from too much silver, what a strange proposition it is that you make to improve your condition by increasing the amount of it.” But our proposition, even if we accept his statement of the mischief now played by silver, if applied to the facts of the situation as he construes it, would be: “We are suffering—the world is suffering—from discredited, demonetized silver, and the remedy that we propose is to accredit the discredited and rehabilitate the demonetized money.” The tables cannot thus be turned upon us. No man can charge upon the bimetallists the responsibility of wanting more discredited or more demonetized precious metal in the world.

We must, then, proceed with our deliberations to find a remedy for acknowledged evils and evil tendencies. Even Mr. Pirmez’s cheerful estimate of the situation scarcely satisfied him that there might not and should not be some improvement in the condition of things. I am sure it did not satisfy this Conference, nor will it the nations whom we represent, that our service and our deliberations are superseded by the disappearance, under our debate, of the mischiefs in the monetary condition which we were called together to meet and correct. I need hardly argue that if the nations here represented, fifteen states in all, if their delegates recognize the fact that there are evils now present, that there are greater evils threatened, then it becomes us to undertake to advise these governments—and it becomes these governments to take such action as their wisdom and responsibility suggest—to correct these mischiefs and reduce the disorder in the money system of

the world by such means as they shall approve as most suitable, most promising, for the desired result.

Now there are but two logical methods in which this disorder between gold and silver, this depreciation of their general and combined functions, this struggle between them, can be put an end to. One is to admit, as the intrinsic money of the world, only one metallic basis, and to drive out, extirpate, as a barbarism, as an anachronism, as a robber and a fraud, the other metal, that, grown old in the service and feeble in its strength, is no more a help but a hindrance and a marplot. That is a task that might be proposed to the voluntary action of nations, and if the monometallic proposition be the true one, that is the logical course to which the nations we represent ought to resort, unless they take the only other logical alternative—that is, to make one money out of the two metals, to have no two standards or kinds of money, but one money, adapted in its multiples and divisions to the united functions of the two precious metals.

I have said that these two are the only logical methods. There is another method, and that is, in despair of making one money out of the two metals, to make two moneys out of them. This project is not to discard either from the service of mankind, but to separate them, and so mark them as that they shall not occupy the same regions, but divide the world between them. For the working of this scheme, it is proposed that in some fashion a partition shall be made among nations, or sets of nations, and a struggle for the metals be set on foot to reach an equilibrium or alternating triumph, or undergo such fluctuations or vicissitudes, or enjoy such a degree of permanence as fortune, out of the chaos, may offer to mankind. This scheme might well be defined as harmonious discord and organized disorder. But this is nothing but a conclusion that although there is an intolerable evil, it is not within the compass of

human wisdom or human strength or human courage to attempt to remedy it. This conclusion would leave things to take care of themselves. This notion found expression in the sentiments declared by some of the Powers at the Conference of 1878. The hopeful expectation that was then indulged, that things would take care of themselves, has not been realized. Experience since has shown an aggravation of the mischief, a continued and widening extension of its pressure, and produced another appeal to the wisdom and courage of the nations to redress it, under which this Conference has been convened.

But there is, confessedly, a great difficulty in arranging this partition of money among the nations. I will not enlarge upon the difficulty; it has already been sufficiently pointed out. It is inherent and ineradicable. Its terms cannot be expressed by its champions. Sometimes it is spoken of as a division between the Asiatic and the European nations; sometimes as a division between the rich nations and the poor nations; sometimes as a division between the civilized and the less civilized nations. There seems to have been an easy confidence that these groups could be satisfactorily arranged for a reasonable equality in the battle of the precious metals. But I have been puzzled to know, and no one has distinctly stated, where the United States were to be arrayed. No one has ventured to determine whether they are to be counted as a rich nation or as a poor nation; whether as an Asiatic or a European nation; whether as a civilized or an uncivilized nation. Yet I think it would be no vain assumption on the part of the United States to feel that any settlement of the money questions of the world that leaves us out and our interest in them, and our wisdom about them, will not be the decree of an ecumenical council, or establish articles of faith that can be enforced against the whole world. The notion seems to be that the nations that sit above the salt are to be served with gold, and the

nations that sit below the salt are to be served with silver. But who is to keep us in our seats? Who is to guard against an interruption of the feast by a struggle on the part of those who sit below the salt to be served with gold, or of those above the salt to be served with silver? This project purports to have neither wisdom nor courage, neither reason nor force, behind it. It is a mere fashion of speech for saying that we cannot by human will, by the power or the polity of nations, redress the mischief, but that we must leave the question to work itself out in discord, in dishonor, in disorder, in disaster.

This brings us fairly to consider how great the task is which is proposed for reason and for law to accomplish. How much is there wanting in the properties of these two metals, how much is missing from the already existing state of feeling, of habit, of the wishes and the wisdom of the world at large, and in the common sense of mankind as exhibited in history or shown to-day, that stands in the way of the common use of the two precious metals to provide the common necessity of one money for the commerce of the world?

The quarrel with nature seems to be with its perverse division of the necessary functions of money between the two precious metals. In their regret that nature has furnished us silver and gold, with the excellent properties of each, instead of one abundant, yet not redundant, metal that would have served all purposes, the monometallists strive to correct this perversity of nature by using only the not abundant gold and discarding the not redundant silver. Well, I do not know but one might imagine a metal, a single metal, that would combine all the advantages which these two metals in concert have hitherto offered to mankind. It may be within the range of imagination to conceive of a metal that would grow small in bulk when you wanted it to aggregate values, and grow large when you wanted to

divide it into minute values. Yet, as I think, the mere statement, to the common apprehension of mankind, describes what we should call a perpetual miracle, and not an order of nature. Now, if such a metal is a mere figment of the imagination, if no such metal with these incompatible qualities is found *in rerum natura*, how are we going to dispense in our actual money with that fundamental, inexorable requirement of intrinsic money, a physical capability of multiplication and of division to serve these opposite uses? Why not then accept the reason, accept the duty, of treating these two metals, in which combined nature has done the utmost for this special need of man, by supplying the *consensus* of positive law, that single *nexus* between them, that fixity of ratio by which these two shall be one money at all times and everywhere; by which silver, when its multiplication becomes burdensome and unmanageable, loses itself in the greater value of gold; and gold, when its division becomes too minute and trivial, breaks into pieces of silver. What nature, then, by every possible concurrence of utility has joined together, let no man put asunder. It is a foolish speculation whether *in rerum natura* a metal might have been contrived combining these two opposing qualities. Let us accept the pious philosophy of the French bishop as to the great gift of the strawberry: "Doubtless God Almighty might have made a better fruit than the strawberry, but doubtless He has not."

This brings us to the essential idea which lies at the bottom of this effort at unity of money for the nations, the capacity of law to deal with the simple task of establishing a fixed ratio between the metals, so that their multiplication and division should make but a single scale. This, Mr. Pirmez would have us understand, would prove an ineffectual struggle of positive law against the law of nature. It is thus he denounces the attempt at a practical *nexus* between these metals by reason, which could not be sup-

plied by the physical properties of matter. To me it seems to require no more than law and reason and the wit of man can readily supply, and have constantly supplied, in innumerable instances, and it should not be wanting here. The reason of man must either, in this instance, take the full bounties of nature and providence, or must reject them, as the gross and ignorant neglect all the other faculties that are accorded to human effort and to human progress by the beneficence of God. Bring this matter to the narrowest limits. Here is a gap to be filled. Shall we supply it? Will you insist upon what is called one standard and have two moneys, or will you insist upon two standards with the result of one money? But one money is the object. All question of standards, one or two, is but a form and mode by which we may reach what we desire—one money. I insist, and challenge a refutation, that at bottom the theory of a gold standard is the theory of two moneys. It is the theory of discord between the metals. It is the theory of using one to buy the other, and robbing the exchange of commodities of what it requires to the utmost, the double strength, the double service of the two metals to buy and sell, not one another, but the commodities of the world.

But it is said that this pretence, that law can regulate the metals in their uses as money, involves a fundamental error in this, that money is itself a commodity, and that law cannot regulate the ratio of the two metals as money any more than apportion values between other commodities. Well, silver and gold as they come from the mine no doubt are commodities. There might be imagined a metal that, besides having all the qualities which make it useful to men for money, might also miss all the qualities that would make it useful for anything else. You might have a metal suitable in all physical properties of gold and silver that was neither splendid for ornament, nor malleable, nor ductile for use; you might have a gold that did not glitter to

the eyes, and a silver that did not serve to the use. In such case the confusion between gold and silver money, and gold and silver in their marketable uses, would be avoided. But, as a matter of fact, besides the good qualities which benign nature has infused into these metals for our service as money, they have, as well, the properties which make them valuable in vulgar use. These latter uses, no doubt, in the infancy of mankind, directed attention to the recondite properties which fitted them for the institution of money, which later ages were fully to understand.

Although, then, the precious metals, in their qualities as metals, may remain commodities, whenever the act of the law, finding in their properties the necessary aptitudes, decrees their consecration to the public service as money, it decrees that they shall never after, in that quality of money, be commodities. In the very conception of money, it is distinguished from all exchangeable, barterable commodities, in this, that the law has set it apart, by the imprint of coinage, to be the servant of the state and of the world in its use as money, and to abstain from all commixture, as a commodity, with the other commodities of the world. Wherever and howsoever this ideal of money fails to be real, it is because the law is either inefficient within its jurisdiction, which is its disgrace, or because its jurisdiction is limited territorially, and its vigor fails beyond the boundaries. In the latter case, I agree, silver or gold, in the shape of the coinage of one country or another, may become merchandise to be bought and sold, in other countries, as a mere money metal. Manifestly these exposures to demonetization beyond the boundaries, because the legal force which has made the metal money stops with the boundaries, is the main cause of the mischiefs in the monetary systems of the world which need redress. The cause understood, the cure is obvious. It is to carry, by some form of *consensus* among

governments, the legal relations between the two metals, in their employment as money, beyond the boundaries of separate systems of coinage. These legal relations between the metals once fixed, no important evasion of it would be possible, and no serious disturbance of it could arise from diversities of coinage. It is for this result and by this means that we are striving.

But law, it is said, is inadequate in its strength, in its capabilities, in its vigilance, in its authority, to accomplish so great, so benign a result. It was accomplished up to the year 1870, by even the informal concurrence among the nations which till then subsisted. The spirit of the present age has led to manifold international applications of positive law on other subjects than money, while there is no subject to which its application is so important, or, within limits, so easy, as money. For want of this *consensus*, the necessary conception of money, the institution of money, the consecration of money, is defeated, *pro tanto*, when any portion of the money loses its prerogative and incommunicable function of buying and selling all, and becomes purchasable or vendible. Whenever any portion of the money which should be used as the solvent for the exchange of commodities, turns into a commodity, it thereby not only diminishes the force and volume of money, but adds to the weight and value of exchangeable commodities. It is as little a condition of health, and may lead to as great calamities, as if the fevered blood should burn the tissues of the vital channels through which it circulates, or as if the coats of the stomach should turn to digesting themselves.

To me it seems certain that the nations must contemplate either the employment of the two metals as the intrinsic money of the world, upon a fixed, efficient concord and co-operation between them, or their surrender to perpetual struggle, aggravating itself at every triumph of one over the other, and finally ending in that calamity which



overtakes, sooner or later, those who care not to use the bounties of nature according to the gift and responsibility of reason. I can see nothing valuable in the treatment of this subject which would leave the broken leash, which so long held together these metals, to be repaired by chance, or the contest to be kept up at the expense of that unity, concord, common advantage and general progress among nations, which is the ideal and the hope, the pride and the enjoyment, of the age in which we live.

Mr. Pirmez, however, would have us understand that this simple law of fixing the ratio between the metals, to be observed among concurring nations, although this *consensus* should include all the nations most engaged in the interchanges of the world, would be powerless because it would be opposed to the law of nature. The law of nature, no doubt, has made two metals, but according to the best inspection of them by science and common sense the law of nature has made them as little diverse as possible compatibly with their best use as money. I agree that there may be foolish laws. There may be laws theoretically wise, but which, by the lawgiver not computing the difficulties to be overcome, or the repugnances that will resist their execution, are unwise for the time and the circumstances to which they are applied. I believe, as Mr. Pirmez does, that an ill-matched struggle between arbitrary decree and the firm principles of human nature will result in the overthrow of the law. But that doctrine, at bottom, if you are to apply it without regard to the very law and without measuring the actual repugnance and resistance it has to meet, is simply impugning civilization for having fought with nature, as it has done from the beginning. We had some years ago a revenue law in the United States, called forth by the exigencies of war expenditure, by which we undertook to exact a tax of \$2 a gallon on whiskey, yet whiskey was sold all over the United States, tax paid, at \$1.60 a gallon.

This was a case of miscalculation of how far authority could go against a natural appetite and a national taste. When we reduced the tax to sixty cents on the gallon, the law triumphed over this opposition of appetite and cupidity, and produced an immense revenue to the Treasury. It is the old puzzle how to reconcile the law of nature, that abhorred a vacuum, with its ceasing to operate beyond thirty-three feet in height. This was solved by the wise accommodation between philosophy and fact, that nature abhorred a vacuum, to be sure, but only abhorred it to a certain extent. As I have said, the informal, the unconscious, the merely historical and traditional *consensus* of mankind made and maintained an equilibrium between the metals among the nations up to 1870. With more vigorous aid from positive law, that "written reason" which, Mr. Pirmez says, is all the law there ever is or can be, I cannot but anticipate the suppression of the discord and struggle between the moneys of the world which now trouble commerce.

In my judgment, the progress which has been made here, the comparison of opinions, the indication of the interests of governments behind, all point to a general desire for a good result from our deliberations which is an augury of success, for "where there's a will there's a way." I cannot believe that England can long occupy the position of estrangement from either of the systems about which we debate. The British Empire is neither monometallist nor bimetallic, but bimonometallist. The British Empire cannot be monometallist gold nor monometallist silver throughout its length and breadth. Its present position of bimonometallism is entirely inconsistent with reason and with government. It must be bimetallic sooner or later, for it cannot maintain the permanent position of a house divided against itself, which cannot stand. At this stage, then, of the deliberation, without entering into a discussion of details, it seems

to me that the moment is most opportune and the spirit most excellent for a recess of some weeks. In this interval we may expect a definite and practical consideration by the various governments of what the duty and interest of each require from it toward the common end they desire.

## X

### SPEECH AT THE MEETING OF THE AMERICAN BAR ASSOCIATION, ON THE QUESTION OF THE RELIEF OF THE SUPREME COURT, AUGUST 11, 1882

#### NOTE

The great accumulation of causes on the docket of the United States Supreme Court awaiting argument and decision had, for several years prior to 1881, been pressed upon the attention of the legal profession and the question of some method of relief had been the subject of agitation and discussion. The American Bar Association took the matter in hand at its meeting in August of that year by appointing a special committee of nine "to inquire into what adequate remedy can be provided for the delays now incident to the final determination of suits pending in the highest courts of the United States." The committee as originally constituted was made up of the following gentlemen: Messrs. Edward J. Phelps of Vermont, Clarkson N. Potter of New York, Charles S. Bradley of Rhode Island, John W. Stevenson of Kentucky, Cortlandt Parker of New Jersey, Richard T. Merrick of Washington, D. C., Alex R. Lawton of Georgia, Rufus King of Ohio, and Henry Hitchcock of Missouri.

Before the labors of the committee were completed, a vacancy in their number was occasioned by the death of Mr. Clarkson N. Potter, who was at the time president of the association. The committee, desirous to fill the vacancy, invited Mr. Evarts to membership, and from that time he took part in their conferences and deliberations.

The committee was unable to arrive at a unanimous agreement and submitted to the association at its annual meeting in August, 1882, a majority and minority report. The two reports presented two distinctly different plans. That of the majority provided for the establishment of intermediate appellate courts, to be invested with the power and authority of final decision in a large class of

cases reserving for the Supreme Court only certain other classes of cases. These were defined by such limitations as to reduce in a very large degree the number of cases that could be brought before that tribunal. The plan advocated by the minority report contemplated the division of the Supreme Court into two or more sections, each section to have power of final judgment, as the judgment of the Supreme Court, in a large and comprehensive class of cases, reserving for the full bench cases involving constitutional and other important questions. By the plan of the majority report, relief of the docket of the Supreme Court was sought by diminishing the occasions for its labor; by the plan of the minority the same end was to be gained by increasing the capacity of the court to dispatch its business.

Mr. Evarts united with Messrs. Phelps, Parker and Merrick in the minority report. At the meeting of the American Bar Association, held at Saratoga, August 8-11, 1882, in the debate upon the adoption of the majority or minority report of the committee, Mr. Evarts made the speech that follows, in support of the plan proposed by the minority.

In this connection it is interesting to note the part Mr. Evarts took subsequently in the Senate, in the passage of the Act of Congress that put in force the present judicial establishment of the United States courts and created the Circuit Courts of Appeals, thus making effective in the Federal judicial system the principle of the plan of intermediate appellate tribunals. In the closing months of his term in the Senate a bill, originating in the House of Representatives and having for its object this relief of the Supreme Court, by the establishment of intermediate appellate courts, was referred to the Senate Judiciary Committee of which Mr. Evarts was a member. The deliberations of the committee resulted, as in the case of the American Bar Association, in a majority and minority report. The majority report recommended the plan of intermediate courts, while that of the minority advocated the other plan of relief. By each report an amendment to the House bill was offered, amounting substantially, in each instance, to a substitute for the measure as reported from the House. In the majority report Mr. Evarts joined, and it fell to him to have chief charge of the progress of the bill offered by the majority,

through the Senate and by conference with the House to its final passage, substantially as presented to the Senate.

It was not any change in his opinion as to which of the two methods of relief should be preferred that led Mr. Evarts to give his support to the method that finally prevailed. It was rather because his observation and judgment informed him that it would not be possible to obtain the necessary votes in Congress to adopt the plan he had advocated before the Bar Association, and the imperative need of immediate relief to the court became a paramount consideration.

In the course of the debate in the Senate, Mr. Evarts's position on the general subject was referred to by Senator Vest of Missouri, who, as a member of the Judiciary Committee, espoused the minority plan. Senator Vest called the attention of the Senate to Mr. Evarts's speech before the Bar Association in the following passage:

"But, Mr. President, the senator (Mr. Evarts) undertakes, I will not say to treat with scorn, but to depreciate this idea of a division, as it is termed, of the Supreme Court, because he says there has been no action taken heretofore in that direction; that there has not been enough opinion in that regard to crystallize a measure to be brought before Congress by the advocates of this division of the Supreme Court, as it is termed, and he wants to know why this sudden change. There has been no change. I want to say nothing personal in this debate, but I must be permitted to observe that the first and most conclusive argument I ever heard in favor of this division was from the distinguished Senator from New York. He is the father of the system which I advocate here today. I am willing now to leave the question of the constitutionality of this amendment to the senator from New York, because I know his absolute impartiality and his ability as a lawyer. As a matter of course I do not state that the senator has from any except proper motives changed his ideas, if he has changed them, in regard to this matter; but it is not so absurd, it is not so ephemeral, it is not so unsubstantial an idea as has been suggested, because the senator from New York, with his great ability and great experience, championed for a long time the very system which I stand here today honestly to advocate as the best relief for the evils that are pressing upon us."

Thereupon the following interchange between the two senators ensued as taken from the record of the debate:

"MR. EVARTS: Mr. President, what I asked the senator's attention to was this: that all this great mass of public opinion and interest of suitors and of the profession and of judges has been that they wish accessible courts distributed all over the country ample and adequate, that would relieve the congestion of their business in coming here for it. I pointed out to him that this method would relieve this congestion here and so far remove an objection of the local interest. But what has become of that opinion that they wanted and want now courts of adequate appellate jurisdiction that can be reached short of coming here?"

"Now, on the other topic, the senator has not heard a word from me on the constitutional question in which he is interested. He has paid me great compliments. I have understood and I have fathomed two things. I have fathomed the Constitution and have estimated it, rightly or wrongly; but I have fathomed another thing, and that is, whether there was enough of voice and vote anywhere in this country to support the view that is now espoused by the senator here, and in which he says the ablest argument he has seen on that subject came from me. That is what I as a senator am dealing with.

"MR. VEST: Of course I do not press the question, but I should like in the entire frankness in which I have discussed this matter to have the senator's opinion as to the question of the constitutionality of the division system, as it is called.

"MR. EVARTS: I understood the senator to say that the best argument he had heard or seen in favor of that had come from me.

"MR. VEST: But I wanted to know if the senator had changed his opinion. We know there are changes in public life.

"MR. EVARTS: I never revoked it, even in a newspaper paragraph.

"MR. VEST: Very good; then the senator believes it.

"MR. EVARTS: But I have drawn the attention of the Senate and what concerns the public to what my opinion is, and let me add, with great respect to what the opinion of the senator from Missouri is, the question is whether everything is to go to pieces because there are arguments that will bear examination and may be finally

right. If I could have found that there was the least support in either House of Congress, or in the profession, or in the judiciary, that would carry through a measure which would relieve us in any other direction, I should have been more free as to discarding or disapproving this method or any other method of interappellate courts.

"I do not find now that the senator has any expectation that that scheme can be substituted here on this floor for this. If it can be done, let it be done. Then we march forward; but all I can say, or all I can hear, all that I can imagine is that a halt is to be made in this slow march of the last fourteen years, to take a new invigoration, not towards movement, but to slumber and sleep. That is what we are to vote on. That is to be disposed of and if there is an alacrity, if there is a consonant movement, if there is behind us a wish, let it be put in place of this measure that is proposed; but do not defeat the provisions that are accessible and have been debated for the last fourteen years.

"I am told directly and by authority that in the last session of the American Bar Association at Saratoga, which collects eminent lawyers, and conspicuously from the Southern and Western portions of the country its most eminent lawyers, there were two out of the whole body who favored the system of chambers for the Supreme Court of the United States, when we were able to divide the committee of the Bar Association some ten years ago four and five, and to divide the general assembly of the lawyers, which I had the honor of addressing, in the proportion of about two fifths to three fifths of it. We have now come down to this, that there are only two in the profession who favor it."

This important measure was, at the time of its enactment by Congress, known in the profession as the "Evarts Act." Nor was this tribute to his connection with it undeserved. A brief reference to the history of the course of the bill through the Senate and House will show how large a share he had in its authorship and how much of its sponsorship fell upon him. The House bill was referred by the Judiciary Committee of the Senate to a sub-committee, consisting of Mr. Hoar, Mr. Pugh and Mr. Evarts. The other two senators relied almost entirely upon Mr. Evarts in the work of this sub-committee. He made an exhaustive exam-



ination of the statutes and decisions bearing upon the general topic of the jurisdiction of the United States courts, with which he was, as a lawyer, already familiar, and then drafted a memorandum of the proposed measure showing in outline its general plan and scope. This was submitted by him to the justices of the Supreme Court and one or two judges of the Circuit Court, inviting criticism and suggestion. Upon the return of these drafts with the general approval of the members of the bench, Mr. Evarts dictated to his secretary, who was not a stenographer, at one sitting, the bill as it was afterwards reported by the Judiciary Committee to the Senate and which underwent but slight alterations in its passage through that body and the lower House of Congress. There was some opposition manifested in the House of Representatives to this substituted measure, and that Mr. Evarts's influence in the conference committees of the two Houses was very great in overcoming this obstacle to its passage, there can be little doubt. The bill finally became a law on March 2, 1891, two days before the expiration of Mr. Evarts's term in the Senate and his permanent retirement from public life. It remains upon the statute books as one of the public services rendered by him, and, appropriately, in connection with the administration of justice to which his long and active life had been devoted.

When we recall that for the last two years of Mr. Evarts's career in the Senate he labored under an infirmity of advanced age in the serious and permanent impairment of his eyesight that made reading and writing an impossibility, we need not wonder that his secretary regarded his work in the preparation for and in the drafting of the bill, in the conduct in its support of the six days' debate in the Senate and in the labors of the conference with the final result, as an extraordinary intellectual achievement and a remarkable exhibition of indomitable character.

*Mr. President and Gentlemen of the Association:—*

By the courtesy of the chairman of the committee, Mr. Phelps, with whom, in the minority report, I had the honor to agree, it has been understood that I would close the presentation of the views of the minority; and as no dispo-

sition has been shown on that side to press the discussion further, I may assume that whatever I shall present will be regarded as completing our contribution to the discussion; and after we shall have had the pleasure of listening so some arguments in reply upon the other side, we may hope that the Association, by its own consideration of the reports, by its own intelligence, further unassisted by the committee, will be ready to express its views in its vote.

I move to amend the resolution by striking out the word "majority," and inserting the word "minority."

I may be excused for a moment in calling attention to the general function of a government in providing justice for the needs of the people over which it rules. I am disposed to think there is very little difference of view on that general question. As Mr. Burke has said, justice is the main policy of all human society; yet in the administration of that great trust reposed in government, it cannot be said that it is an inherent duty in government, on that great head of its authority, to give a day in court, on all their controversies, great or small, to the humble or the proud, to the strong or to the weak, more than once.

Every court of every civilized and moral government should be a good court. It should have a judge competent and upright; it should have principles of justice and of procedure that are honest and suitable; and when the government has opened its courts once to all its citizens, it has done its duty, in that regard, to the particular citizen, whether he be great or small. What, then, further, is there in the system of judicature or jurisprudence, of judicial establishment or of maxims of administration, except to see to it that the same justice is administered in all the courts—to the humble and the proud, the weak and the strong, the rich and the poor?

And out of that obligation grows the establishment of appellate systems, without which the natural divergence

of different minds and different courts, however intelligent and however upright, would soon make a tangle and a discord of what should be plain and uniform; and that is the best appellate system that has the most direct connection between all the courts of original jurisdiction and the final unity of the law that presides over them all. Whatever of intervention, whatever of interception, whatever of delay, whatever of new arguments and new divergence arise, whatever the steps of appeal, is, in so far, a departure from the true theory of unity and simplicity and equality.

The framers of our Constitution, Mr. President, were as wise, as well equipped, as sagacious and circumspect in the framing of the judicial as of any other department of government. The people admire, the world admires, the wisdom of their political arrangements; the lawyers better, perhaps—the lawyers of all countries—admire the judicial establishment of the United States.

It has furnished a model for the growing communities of the states, and I think it is the professional opinion that, in so far as the state establishments have varied from that great model, they have yielded to circumstantial and temporary impressions, and lost sight of the pole-star by which the whole system should be steered.

There was a clear insight into this primary principle which I have insisted upon when, in a few brief words, the Constitution prescribed that there should be *one* Supreme Court. But that was but a title, unless the Constitution defined what was meant by the unity and what was meant by the supremacy. And in a few words—every one of which bears the impression of wisdom, every one of which will suffice to the exigencies of the vast populace of a wealthy community as for the sparse population and the moderate interests to which it was originally applied—we have a definition as to wherein the supremacy of the Supreme Court itself existed, and whereby it shall be maintained; and I appear, as does

the portion of the committee with whom I concur, to maintain the Constitution and the frame that our forefathers gave to the judicial system of the United States: to be deterred by no width of territory, magnitude of interests, or vastness of population from adhering to the point that there shall be but one Supreme Court, and that there shall be a step at once from the courts of original jurisdiction to that Supreme Court.

But now for the first time there is proposed a departure from the scheme of the framers of the government, and the interposition of another court that is to be supreme and final in a great mass of the litigations of this people.

We all agree as to the great pressure upon the judicial establishment, growing out of no misfortune and no disaster; of no disappointment of the patriotism and the hope of our fathers or of the succeeding generations; but simply by the magnificence of the results which have grown out of the great institutions that we have inherited. It is our prosperity; it is our wealth; it is our population; it is our vast territory; it is the immense development of science and of art that makes this great country full of living, independent, individual men; that teaches them their rights and makes them dare to maintain them; that conducts them in obedience to the law, and makes them all bow to its maintenance and its authority; that crowds our courts with the steps of the votaries of justice that are drawn unto them; and the question is for us not how we shall repel them, but how we shall welcome and accommodate them.

The business of the Supreme Court may be separated from that of the courts of original jurisdiction in the question of inconvenience or of pressure which we are considering. We have the fact that the court, grown up as it has, and constituted as it is in membership and in numbers, with its enlarged business, is no longer adequate to control the administration of its business so as to satisfy the rightful

demands of suitors for its speedy and effective distribution.

There are but two modes of disposing of this difficulty. Either the Supreme Court must be put into a course of administration of its functions, which will enable it to discharge its great duty as the only Supreme Court; or else, in despair of maintaining the great idea of the judicial establishment, we must deprive it of part of its business, and give it to others.

The measure of the minority undertakes, while it preserves the full bench for all the great constitutional questions of its peculiar jurisdiction, to distribute the hearing of private causes among quorums of a less number than the full bench. It is demonstrated by the statistics that if you will give this court the working force of two quorums to do the general business of the country, without further change, you will work down the present accumulations in a few years, and thereafter maintain the business of the court where it will not fall into arrears again. All that is desired will be accomplished without depriving citizens of any state of the rights that they now possess in the matter of appeals, and without robbing the court of its entire supremacy as an appellate court, nor embarrassing the steps of revision by interposing a new stage of interest and litigation. This is worth accomplishing, if it can be done, and I have heard no adequate, no very thoroughly considered objection to this method, except whatever there may be in the doubt as to its constitutionality, which I shall consider briefly at an appropriate stage in my remarks.

All other objections that favor the intermediate establishment, seem really to carry a preference over the scheme of *one* Supreme Court in favor of the arrangement of groups of states to have for their final administration of justice, in the great mass of the litigations of their population, a supreme Provincial Court, that never introduces the Supreme Court at all into its discussions.

What is there, then, in the Constitution that bears upon either of these methods, or upon either of these principal considerations of the unity and of the supremacy of one single supreme court in this country? In the first place, the provision is that the judicial power shall be vested in *one* Supreme Court, and in such inferior courts as Congress may establish. Now, the sticklers for a literal construction of the provision for unity, expressed in the single word "one"—who would exclude a convenient administration of that unity as a possible resource to the government, though it does not maintain the undivided relation that absolute unity might be supposed to exact—overlook what is the principal definition of the tribunal that its oneness should be all, and cause all, its supremacy. And where do we find the definition of its supremacy? Why, in the next clause. After defining the original jurisdiction of this tribunal (which has nothing to do with its supremacy whatever), having said what shall be original in this one supreme tribunal, in explicit, comprehensive, and peremptory terms, it continues that in all other cases before mentioned (that is in the whole subject of Federal jurisprudence and Federal judicial establishment), "it shall have appellate jurisdiction in law and in fact, with such exceptions and subject to such regulations as Congress shall make."

Now, whatever Congress can properly do within this clause of the Constitution, is not a regulation that touches the supremacy of the Supreme Court. Whatever else it may do in determining, on the principles of general policy, what shall be the regulations of appeals and what shall be the exception, as to what is appealable or not appealable, it cannot, in the spirit of this clause of the Constitution, create another appellate court that is final and not subordinate to the Supreme Court. Where is your unity and where your supremacy gone if, under that clause—which was meant merely to except from the absolute generality that every

subject in the jurisdiction of the courts below shall come up—you establish another appellate court? When the Constitution says there shall be such inferior courts as Congress may choose to make, they may multiply, they may become as numerous as the stars in the firmament, but there shall be but one sun. There shall be no cluster of stars that shall interfere with the gravitations of the system in respect to its judiciary, any more than in respect to its political establishment.

Let me call your attention to one striking feature of the Davis bill which is favored by the majority report.

There is just as peremptory a provision in the Constitution that the Supreme Court shall be an appellate court on questions of fact, as there is that it shall be so on questions of law. And yet this bill, that has passed the United States Senate, absolutely deprives the Supreme Court, by statute, of any appeal to it upon questions of fact, except on the single subject of patent law. This illustrates the danger of being governed by forms and not substance; for if they could have passed that law with that merely formal, or, so to speak, colorable exception, they could have passed it without any exception at all, and our learned friends would be contending that the provision of the law that robbed the Supreme Court of one half of its supremacy, and conferred it absolutely upon other courts, was constitutional. By this measure the final power of re-examining facts is given to newly created courts, not named in the Constitution. It is like tearing out of the Constitution the clause that gives the one Supreme Court appellate jurisdiction as to fact.

Let us consider whether there is not also some danger that, in the revision of law, there may be an equal constitutional infraction, when there are final courts provided that are appellate and conclusive in the great mass of litigation of the people. Let us look at the distribution of the judicial power in the matter relating to the great constitutional ideas which

are to preserve the state governments intact, and support their frame out of which and for which the general government is provided. If there be anything to be read in the Constitution of the United States, it is that our establishment of government, complex and difficult as it is, involving systems that may run against one another, shall be carefully limited to the two political autonomies within their spheres of the states as individual states, and the Union as an undivided indivisible nation.

I will not dwell upon our bitter experience that, out of fewer elements for discord than ever attended the progress of a people, there has been produced a vehement collision, that shook the states and the nation equally, because there came to be an aggregated force, combinations of states geographically and of their social interests that was not provided for in adjusting the orbits of the individual states in their revolution in our system round the central orb. And now I find that under motives of convenience, and under technical, temporary, and superficial influences, is to be built up permanently by law, under our Constitutions, groups of states that are to maintain *quasi*-supreme courts, each in their own province and for their own interests.

Look at the arrangement of the courts of first instance, or the inferior courts, under the Constitution. No one of them goes beyond the state. There is no court that sits in this country but the Supreme Court that has jurisdiction outside of and beyond the boundaries of individual states. We have an arrangement by which a circuit judge becomes, *pro hac vice*, and from time to time, a part of the court in each state within his circuit. But the court never goes beyond the state. There is no grouping together of bar, of jurisprudence, of judicial combination and interests, of zeal and pride that goes beyond the single district in which each court stands. This measure is an introduction into our scheme of government of a combination of a group of states



that are to have a system of jurisprudence peculiar to each combination.

I do not insist here upon what has been discussed—the danger of separate and independent schemes of jurisprudence. I am now asking you to see the innovation upon what I regard—and I believe every thinking man regards—as the very basis of the unity of this government and, it seems to me, of the independence of the states. By this aggregation of provincial courts you rob the states of a certain part of their individual independence.

I regard with alarm this step as the possible commencement of groups of states whose interests will become diversified; a separation of the states into distinct groups—of the New England States, of New York and Pennsylvania, of the Southern States and the Mississippi Valley States, the Pacific Coast States, the great Northwest and the great Southwest, and the great Central States, each group having a separate administration of justice, separate ideas and views, separate policies of the law.

Why is it we cannot sufficiently provide relief for the Circuit Courts by an increase in their judicial force? The accommodations needed for the increased population and growth of business are felt to be as pressing in the courts of original instance as in the Supreme tribunal at Washington. Why not preserve the idea that, however much you multiply them, however many more judges you contribute to them, you yet preserve them, as a groundwork of original jurisdiction, with no appellate authority between them and the Supreme Court?

The only reason for any change is that the business cannot be transacted by the Supreme Court while its entire judicial force is applied to the consideration of every private cause. Who is it that thinks it is wiser and better to have an appellate tribunal of nine judges rather than of five? I am now looking at it merely as a tribunal suitable in its

arrangement for the hearing and determination of causes, and having no considerations of a political or politico-legal significance in the problem. I think we would all agree that five judges for a great appellate court is the best number that can be devised. Five admits of no decision except by three. Except on the constitutional cases that arise, I think the court might well enough consist of but five judges. How did there come to be nine? Was it ever made a court of nine judges as an appellate court? The increase in the number of judges of the Supreme Court was always the result of an increase in the number of circuits, and the nine circuits have made the number of judges nine; and but for the inconvenience of increasing their number as an appellate tribunal, long before this, instead of being nine circuits, there would have been fifteen. This idea of the preservation of the entire judicial force of the Supreme Court in its action on the ordinary cases that come before it, has kept down the increase of the circuits in number. But we have come to the point where we must determine whether it is an essential element of the constitution of the Supreme Court that its entire judicial force of nine judges should be applied to the hearing of ordinary and everyday causes. Does any lawyer think that a charter party, or a policy of insurance or a patent case, or a freight case, or a common carrier case needs to have that immense breadth of judicial force applied to it which is included in the whole bench of nine judges, that are collected there not for that purpose and that idea, but because there are nine circuits?

We propose, by our method, to take hold of the subject where the pressure is, and, by an administrative measure that does not depart from any fundamental ideas of the Constitution, enable the Supreme Court to do its business. Is it constitutional? I agree not only that what is unconstitutional is impossible, but that any grave or serious question upon a matter respecting the Constitution should

be carefully abstained from, whatever might be the final judgment about it. But, as I say, all the principles and ideas of the Constitution are maintained and observed by maintaining the supremacy of the Supreme Court, and by keeping it the single Court of Appeal in the country.

Is there, then, in this administration by sections or quorums that we propose, any departure from the unity of the court as a court, or its supremacy as a court of appeals? Manifestly none, unless you hold that under our government and Constitution, however large you may make that court, the judges must all sit for the hearing of private causes. You may need to have fifteen, or twenty-one, or even forty-five, for aught I know, if the smiles of Heaven are not withdrawn from us. Would you say that all that number must necessarily sit in such cases?

It has been my fortune sometimes to argue causes in the Supreme Court of the United States involving great questions of constitutional law or general jurisprudence; but the great number of cases, after all, that I have had to do with have been questions under statutory or common law, involving the rights of private parties; and it has always seemed to me that such cases could be effectually and satisfactorily disposed of, and ample justice done by a less number of judges than a full bench.

The presence of so many judges in the hearing of a cause tends to the responsibility or active administration of the particular cause being surrendered to one or two of the judges, the others preserving only an attitude of supervision and criticism. I would rather have three judges attending *ad idem*, and with the same measure of interest, to every discussion, than a larger number who, finding no necessary or proper occupation for so great a judicial force, leave the administration necessarily to the active responsibility and vigilant attention of some one or two of their number. There is no provision in the Constitution except there shall be

one court. What is our plan?—that there shall be two? By no means. There is still one court, one docket. It is that there shall be a division into quorums, which shall hear, in separate rooms, causes in their order on the docket. Two quorums can, of course, dispose of twice as many cases as are now disposed of. The risk of independent judgments, that forms the basis of an objection to our scheme, is small. It is not like having tribunals sitting in different parts of the country, in which case there would be a great probability of diversity. These quorums would each be advised of the nature of the business coming before the other. One of the members of one quorum says to a judge of the other, “You had argued in your court that case of *A* vs. *B*.” “Yes.” “And we, that of *C* vs. *D*.” “One is from Massachusetts, and one from New Orleans; but they both involve the same question of a charter party.” “That is so.” And before any decision is made, pronounced, or recorded, if there is a division, then it becomes a subject that the whole court is to hear, and one judgment is made applicable to both cases, before the diversity has escaped into public notice. But there is no such scheme or method as that, and can be none, in an establishment of courts in different parts of the country.

We observe, then, that the number of members of the court now employed in hearing private cases grows out of considerations entirely independent of the wisdom of having so many thus employed.

The only alternative for a system of lesser quorums, is one that either deprives the citizen of an appeal, or deprives the Supreme Court of supervision. The quorum is within the power of Congress to establish. If there should arise circumstances requiring six out of the nine judges to be attending in their circuits for the hearing of causes of original jurisdiction, it would be entirely competent for Congress to say that three should be a quorum for the

transaction of the business of appeals. It might limit that number to causes of private interest, as it certainly would. Does it, then, make a difference that three shall be sufficient for a quorum, and that it shall be the duty of the court to divide itself into three or into two quorums of four and five, that shall sit concurrently and take up cases in the order of the calendar? I have not been able to see the force of any constitutional objection to the scheme. Lawyers may find an objection to its substance, and then endeavor to fortify that objection by a doubt, for doubts can be bred on almost every subject; but it is a doubt without a reasonable foundation.

Now let me treat on what are the important elements in this alternative plan of the majority of the committee.

The spirit of the committee is very harmonious. Though differing in their judgment, they have desired to propose, as far as they could, a system that was adequate to furnish relief; and this alternative is substituted for the proposition which we have presented to the Association.

The proposition of the majority is that there shall be nine appellate courts, with geographical limits, and made up of members of inferior courts; that the decisions of these courts shall be final, to the larger portion of litigants; \$10,000 must be the right of appeal to the Supreme Court of the United States. That amount must be involved before the litigant can get to the court of last resort. Ten thousand dollars, as we lawyers, talking of our clients' interests, use the phrase, rolls smoothly off the tongue; but it is an amount so large that it is all that the mass of our citizens, short of a few hundred thousand, ever expect to be worth in all their lives.

What becomes, then, of this judicial system of a free people, in drawing this line in the equality of justice between the rich and poor? What becomes of that great encomium upon the law as having its greatest attribute in this, that

there was nothing above its power or beyond its control, nothing beneath its notice nor without its protection?

If your system requires you to strangle the rights of the people, to begin with, and our system does not disturb in the least any of the enjoyment of their rights whatever, it seems to me we have the stronger argument in our favor. If our scheme is adopted, it will be but a few years before the Supreme Court will be able to discharge its functions, not surrender them; the people will be able to have their litigation upon the old standard of \$2,000, instead of having their heritage further shortened by this larger amount of \$10,000.

I warn the bar, and would warn judges, if judges would ever take warning, that the notion that this country has got so many merchant princes and railroad kings that they need to have the time of the Supreme Court saved for them and for the Constitution—for I agree we keep, by either plan, the Supreme Court for the Constitution; we do not allow the railroad magnates and merchant princes to crowd out the Constitution, but this notion, that they should claim almost exclusively the attention of the Supreme Court, is an enormous mischief, an immeasurable evil. It is a fester and sore in the community to have one measure of justice for a great cause and another measure for a small.

The inability of suitors to press their claims or engage lawyers, the poor, or those in moderate circumstances, bear as a part of the incidents of their poverty; but they do not require it, as an additional incident to their poverty, that it should affect their relations with this great tribunal that the people reverence as a great popular institution, after all; for it is the guardian of the Constitution, which is the most popular institution of the people of this country. The Presidency, the Congress, the courts, literature, science, art—all have admirers and worshippers and votaries; but, thank God, the Constitution of the people of this country

stands to them as the greatest human institution that the world has ever seen.

As I have said, there is no obligation in government to give more than one day in court to all its citizens; but is it not its duty to give as many days in court to all its citizens as it gives to any? Do not think you have done your duty in providing for the prompt administration of justice by cutting off all recourse to that administration on the part of a great portion of your people.

The old system, providing for the presence of a Supreme Court judge as part of the Circuit Court, was intended, really, and operated to carry, so to speak, in this divided and divisible form, the wisdom and knowledge of the whole court; so that in the courts of first instance it should be felt by the suitor that, except in very debatable and difficult cases, he had had the wisdom of the Supreme Court brought into the original determination of his cause. If the unbending circumstances of our expansion would have justified a continuance of that system, we should not have heard of intermediate courts of appeal; but that was not possible.

That was an admirable system, but we have had an interception of the presence of the Supreme Court, by one of their members in our circuits by the creation of circuit judges, and by the extension of the term *in banc* at Washington, so as to give no time for circuit attendance. And you have, under the pressure of that necessity, cut under to a very undesirable extent the relations of the Supreme Court to the people, in the persons of associate judges of that court participating in the administration of justice all over the country. That you have done, and you have shut them up at Washington all the working part of the year. That being done, it is now proposed to the people of this country that the Supreme Court cannot administer the full appellate jurisdiction; that the citizens must have their appeal curtailed, and there must be a division of the appel-

late power; and the Supreme Court itself be removed another stage away from the people.

These measures, as we now debate them, present the question of whether the Supreme Court shall, by an administrative arrangement, be made able to dispose of its causes, or whether those causes shall partly be suppressed and partly decided by others.

I confess that while I can understand perfectly the difference of opinion among lawyers and among statesmen, I cannot understand why the Supreme Court itself, at Washington, should be thought to favor this great novelty, touching great interests no doubt, as I think in its pernicious results, as our learned friends think, in its beneficial results. So far as the Supreme Court itself is concerned, it seems to me to be nothing but a decree that its great inheritance shall be taken from it and given to another.



## XI

### ADDRESS AT LAYING OF CORNER STONE OF SHERRED HALL, GENERAL THEOLOGICAL SEMINARY, NEW YORK, MAY 10, 1883

*Bishop Doane, Right Reverend Fathers, Mr. Dean, Gentlemen  
of the Faculty, Clergy and Laity, and Students of the Sem-  
inary:*

When the Dean and the Faculty, seconded by my beloved and revered friend, the Bishop of this Diocese, suggested to me that I should take part on this interesting occasion, I felt that it was proper that the laity should bear a share in this matter, as they are to furnish, in great part, both the occasion for the exercise of the profession to be learned here, and perhaps some portion of the resources that are to build up this institution. To be sure, if it had been left to me, I might have pointed out one man and another, in my own profession or in the other walks of life, that might better have taken a part here; but I could not but feel that the Seminary and the Bishop had a little right to expect some service from me, when I was receiving for a son in the Seminary the great service which this institution is, by its instruction, able to furnish.

The occasion, no doubt, naturally leads us to recur to the past; and I imagine that a great benefit will come from so doing, in this way, at least, by introducing to the attention of the general community of the Church and of the city the very interesting condition in which the Seminary now finds itself. The past has not been a very prosperous one, in the sense of the accumulation of wealth for your Seminary, but it has been a very prosperous and brilliant one for you, in showing that you deserve and can use wealth. I have

noticed, in this great community of ours—I mean not merely this city, but all this country, which your Church can appeal to—that whenever it is known that any great public purpose deserves success, and deserves endowments, they are very apt to follow. So it is natural that satisfaction and interest and pride in the present should attend our observance of this ceremonial. To be sure, when one reflects that this is the only General Theological Seminary of the Episcopal Church of the United States—when you remember that on its roll-call of alumni it counts thirty bishops of that Church—when I am told that one third of those who are under theological instruction in seminaries in this communion receive that education here, I think that that Church might shrink a little from accepting what is recognized as a proper rule of reasoning *ex pede Herculem*—I am afraid, if the narrow confines of your endowments, and the narrow provision for your professors and your library, and all the equipments for your great task are presented as the ratio, that for the great Episcopal Communion of the United States, in its own esteem, and in the relation it bears to the country and to the world, an enlargement of this *foot*, should be aimed at.

But after all, the great performance to-day is an initial act, and looks to the future. It is a foundation stone that is laid, which presupposes a structure which is to rise in ample proportions, adorned and fitted for the noble uses for which it is designed. But it is not the material structure that fills our minds or engages our interest to-day; it is only interesting as the outward and visible sign of the great, the permanent, the unlimited influences of thought, of piety, of authority that are to grow out of and to build upon this corner stone that is laid to-day.

And this brings me to the proposition, that in every just and wise estimate of human forces in the Christian civilization in which we live, by far the highest calling, by far the

most useful function, is that of the profession of the clergy. For, looking through all the employments and pursuits of life, and all the dignities and prosperities that attend the careers of individuals, after all, the great question of human nature, the great question of human society, above all, the great question of a free country is, who shall give law to the lawgivers, who shall counsel the counsellors, who shall teach the senators wisdom, who shall watch the watchmen, who shall teach the teachers? And if your profession holds that relation to human forces and human society, whether you accept it in the form of a mystic or an historical Church, whether you connect it directly with spiritual supervision and control, or whether you take it as the experience of the race, that without liberty there can be no just and universal law, and without religion there can be no liberty, I am justified in pronouncing the laying of a corner stone of an institution that is to rear and instruct and discipline and provide the teachers of all those that hold the great places in the world's influence as an occasion to human nature and human interests of no slight importance.

Well, we live in a country in which it is said there is a perpetual divorce between Church and State. What do our Constitutions say on the subject? In the Constitution of the United States this utterance and brief announcement on the subject is made: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Does anyone, who understands this great function of the Church that I have displayed, regret that it is out of the power of any Government to make laws for the Church and its methods and its practice? To you who go forth in the exercise of duty to visit the dark places and illuminate them, to uphold the weak, to overawe the strong, do you regret to hear that it is out of the power of any government here to restrict the full exercise of your profession?

Well, now, for our State of New York, what has that Con-

stitution to say? "The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall be forever allowed in this State to all mankind." Has any nobler confidence in Church or in religion been shown than in these fundamental statements of our law, since the great declaration of the Great Master, "The truth shall make you free"? Matters of religion and faith rest with the Church; and when the State places her above protection and above encroachment, who shall be so faint hearted as from that to draw discouragement to organization, and arrangement and institutions and efforts of your own?

And now, gentlemen, we must not overlook the students and the objects of this institution, as all centering upon them as they are while students, as they are to become when instructed. I would write, however ample the endowments of any seminary might be, however learned and eloquent its professors and teachers, I would write over the portals, for the humble obeisance of every student these few words: "Though I have the gift of prophecy, and though I understand *all* mysteries and all knowledge, and have not charity, I am nothing." These words of St. Paul, when the proportion between Christian clergymen and the world was twelve to twelve hundred millions, expressed a sentiment, a living truth and an active power that has been adequate to bring up a wonderful redress in these proportions, growing ever with greater and greater ratio. And shall these first seeds of Christianity, shall these first notions of what a preacher's power and duty are, shall these be hidden; or shall these be disparaged in the instruction, in the inculcation, in the preaching and in the service of the Church?

I have no doubt that on every principle that should direct professional instruction this city should be maintained as the seat of this Seminary. The way to educate the professions that have to care for the bodies or the estates or the

souls of the people, is to put them where the most bodies, estates and souls are. If you have learned all the human nature that there is in a great city, incidentally during your three years, even if it should include that first introduction to the confidence man in the street, it is better that it should befall a student than a bishop. But really, I find, as the reverend gentlemen who have preceded me have found, great satisfaction in the settlement of this question of site and location. You have had meetings at former times, and you have counselled this way and the other on the topic. But now that question is settled. I cannot literally say of you in taking your decisive position here, "you have burned your ships"; but you have done better, in the sense of permanence. You are building your houses.

No doubt it would be very instructive to any profession to be criticized by the others; it might be agreeable, and it might be useful. I remember that Judge Story, the famous judge, jurist and instructor, used to say to us, at the law school at Cambridge, that he had thought often, in listening to sermons, it would make much difference in the preacher and the sermon, if he knew that, when he sat down, another clergyman was to get up, at another end of the church, in another pulpit, and preach the opposite opinion. Now, somebody is preaching and somebody is thinking the opposite opinion all the while. I wish the general truth could be impressed upon young men, as they go out of the Seminary, that they should preach less and less about one another, less and less respecting this or that division of opinion or of doctrine in the Church, or in the denominations, but they should preach that out of which all these differences grew—not as a healthy growth, but as an infirmity of human nature—that which must again become universal, before the Church has its full triumph; I mean the doctrine of faith in God and faith in man, and in the services embraced in the great word, "charity," and by the example of their lives, as will inculcate these truths.

Now, we lawyers, however much we read Justinian and Coke and Littleton, and however we may have at our fingers' ends all the historic progress of our profession, through the clerical chancellors, to the law chancellors and judges, when we have a cause to try to a jury or an object to gain, say nothing about Justinian or Coke or Littleton. And so learning and instruction, in exegesis, in polemics, in ecclesiastical history, in the lives of the saints and the deaths of the sinners; all these are valuable as education, but they are not to be produced as the staple of your sermons to the poor and the weak and the wicked. They are to be assimilated in the growth of your minds, and are to infuse their spirit and their worth into the language from your tongues, but all your lances and all your winged words should be sent straightforward at the foes in front, and none scattered to the squadrons by your side.

And now, gentlemen, thanking you for your kindness in asking me to take part in this ceremony, and hoping that I have said nothing to create enmity between the professions we represent, I have the honor to make my bow to you.

XII

ADDRESS AT THE TWENTIETH ANNIVERSARY  
OF THE FOUNDING OF THE UNION  
LEAGUE CLUB

NOTE

Mr. Evarts was elected President of the Union League Club of New York in 1882, holding the office until 1885. He succeeded Mr. Hamilton Fish in the presidency of the club. In this social eminence there was an interesting parallel with his public distinction. Mr. Fish had been the immediate predecessor of Mr. Evarts as Secretary of State, and Mr. Evarts's successor as President of the Union League Club was Mr. Depew, who followed, though not immediately, Mr. Evarts as Senator from New York.

In contemplation of the twentieth anniversary of the founding of the club, a celebration of the event was planned for the evening of February 6, 1883. In connection with this celebration as planned the club adopted a resolution inviting Mr. John Bright to visit this country as the guest of the club and to take part in the anniversary festivities. It devolved upon Mr. Evarts as President to convey the invitation to Mr. Bright, and this he did in the following letter:

NEW YORK, December 12, 1882.

THE RT. HONORABLE JOHN BRIGHT, M.P.

*My Dear Sir:*

The Union League Club of the City of New York will have completed twenty years of its existence on the 6th day of February next, and is making appropriate arrangements for the celebration of that anniversary.

By a unanimous vote at a recent general meeting of the club, it was resolved to invite you to become the guest of the club for a visit to the United States, which should include that anniversary, and which should assure to them the honor and pleasure of your participation in its congratulatory celebration.

In communicating to you this invitation of the Union League Club I cannot but feel that, from its foundation and during the whole period of its public labors to uphold the Government, to keep warm and active the loyal spirit of the country, to aid in every form of public action and public opinion the resources of the nation for the suppression of the Rebellion, you have understood the causes which called the club into existence, and which stimulated its activities, and have sympathized with its efforts, and rejoiced in their prosperous issue.

Some of its prominent members have been personally known to you, and others have attracted your own and the public attention by the conspicuous services they have rendered to the country.

The Union League Club has always counted among the important political aids to the support of the authority of our Government, under the stress through which it passed, the firm, unflinching, and impregnable attitude which you and your, and our great friend, Mr. Cobden, opposed to the great current of commercial, social and political interest and opinion which, both in England and on the Continent, set so strongly against the loyal power of the country in dealing with so powerful a revolt.

We have never attempted to measure the extent of our obligations to you, nor to calculate the misfortune to our cause had it missed the support of so great a defender.

These sentiments of the Union League Club are shared by the great body of the sober and thinking people of this country, and the hospitality which we proffer you will be but one form of the general acclaim which your presence in the United States will call forth. For, grateful to us as has been the service rendered us in our time of trial and disaster, we recognize this service as but a part of that general and comprehensive statesmanship which has made you the champion of every good cause, at home and abroad, which labored for the advancement of liberty, and the improvement and elevation of mankind.

In asking you to be our guest from the time you take the sea to make this desired visit, through the whole of your travel in our country, and until you again reach your home, we can promise you that every eye and every heart of our countrymen will greet you with its blessing, and that beyond this, our people will en-



croach as little upon the quiet and freedom which you may think suitable to your health and enjoyment, during your stay with us, as you may desire.

Hoping for a favorable answer from you, I am, my dear sir, in behalf of the Union League Club,

Your friend and servant,

WM. M. EVARTS,

*President.*

Unfortunately, as Mr. Bright explained in his most gracious reply, the obstacles that prevented his acceptance were insuperable and he was, with sincere regret, obliged to decline.

The celebration was had on the day set. The account of the proceedings, printed by the club, contains the correspondence between Mr. Evarts and Mr. Bright, a letter from Mr. Whittier, declining the task of writing a poem, the poem read on the occasion by Mr. R. H. Stoddard and the speeches made by Mr. John Jay, Mr. Luther R. Marsh, and Mr. William E. Dodge, as well as Mr. Evarts's address as President which follows:

*Gentlemen of the Union League Club:*

It becomes my duty now, in the order of exercises prepared for this anniversary occasion, to announce myself as the next speaker. It is true, that, dignifying the occasion—and nothing can dignify it too much,—the committee has chosen to give the distinction of an *Oration* to the brief and informal address which it will be in my power to make before you, and for which I crave your indulgence.

This day belongs to the Union League Club. This celebration is its celebration, its enjoyment, its pride, its contemplation of the past, its satisfaction at the present, its plans and purposes for the future,—all are the club's; and we who, in any function before you, aid in the presentation of these topics, are but the spokesmen, not of ourselves, but of the spirit and the purpose, the faith and the courage, which founded the club, which have maintained it, which have kept it faithful, and, please God, will keep it faithful

as long as it subsists, or as long as the country needs its aid against any evils under any guise.

This club owes its birth to public spirit. Unlike all other clubs in great cities, this was the occasion for its coming into existence, this has been the breath of its life, this is the reason of its being, this constitutes the scheme of its service. It is true, that, as the form of the organization would indicate, it had the methods and the purpose of good-fellowship among its members, and of promoting good-fellowship among those who, to use the phrase of Cicero, "thought alike concerning the Republic." So, too, the cultivation of art and of literature, and the elevation of the topics and the subjects of club interest,—these also were part of the purpose and the plan. Another and an important object was the exhibition of proper respect and courtesy to the eminent men of the country, engaged in the great labors and exposed to the great dangers which attended public life and public action at the period when the club was formed. Respect and courtesy to great soldiers and great statesmen and great orators and great and wise servants of the public interest was from the first recognized as a part of the duty of the club; and now, for the twenty years that it has subsisted, who shall say that in these minor interests, in these lesser duties, it has not been both prosperous and faithful?

In glancing over the list of its members, resident and non-resident, between fifteen and sixteen hundred in number, I count but seventy-four of the resident members and twelve of the non-resident members that date their connection with the club from the year 1863. This shall always be our roll of honor—the men of '63. Like the heroes that listened to the roll-call of Battle Abbey, under William the Conqueror, or the men that signed the Declaration of Independence, so in our lesser sphere this shall be a source of honor which we shall always recognize, and which we may say—though we speak some of us for ourselves—will not be wholly unde-

served. And yet, this shows how the stream of life, in whatever channel it runs, though it preserves its identity, is constantly changing in the substance that makes it up. The deaths, the removals, the withdrawals, have indeed changed the membership, but the club—in its character, in its purpose, in its action, in its repute—remains. Its full members today, if not of themselves, yet by their relations to the great interests, the great motives, and the excellent men who were foremost in the founding of the club,—they represent the spirit, and they perform the duties without any withdrawal, without any failure, and without any misfortune.

We have had ten Presidents. For the first three incumbents of the office the club wisely adhered to the sterling and noble merchants who represented and led the great power in the nation which we wished to secure to be of one mind and of one heart for the service of the country. In Minturn, in Sturgis, and in Marshall, we had as good men, as well deserving of the name of merchant and of the name of prince, as any that the city held. We varied sometimes in the style and manner in which were represented, through this office, the leading elements in the club. In one instance, putting uppermost the *fortiter in re*, we had our friend Jackson S. Schultz for our representative; and then, turning gracefully to the *suaviter in modo*, Joseph H. Choate. Their steady, steadfast, faithful, incessant useful services in the club, promoted Mr. Hoppin and Mr. Ward. More recently the club has delighted to honor the public pursuits, the public talents, the public services, the public distinctions, that were shown in Minister Jay and Secretary Fish.

Now, if you will look at the hospitalities of the club in some of the most signal instances, we shall see that our guests have honored us, if we have not honored them. We entertained Mr. Forster, the British Cabinet Minister, and Lord Houghton, both our great friends abroad in

the time of our trouble; and the great Generals—Grant and Hancock and Sheridan; and Minister Washburne, and General Schurz. Many public men, on appropriate occasions, have, within the walls of the club, felt that in the associated judgment and regard of this assembly, they found one of the rewards of service to the public, and love of their country.

But all these matters on which I have enlarged are but subordinate. Your club was meant to be, and was, the organization and embodiment of public spirit. At the time it was formed, things were at the worst for us. The enemies of this Government were then most hopeful, the strength of the Rebellion in the field the greatest, the allies of the Rebellion the strongest—whether of sympathizers in our own part of the country, or in Europe, in England especially and in France. The Rebellion, too, gained aid and comfort from the doubts and troubles, the distrusting and fears, that sometimes took possession of the loyal and valiant men of the country;—as if their task were too great, as if the perils were too strong, as if the powers against us were greater than the world had ever seen vanquished, and as if our own powers, as citizens of a free state, were to lack somewhat of the measure and mass that belongs to subjects of stronger governments. Then it was that certain brave and wise spirits, in the ranks of common life, in the city of New York, determined that neither these powers of evil nor this faltering and failing of the good should end in disaster to their country without one great and united effort to make the moral and intellectual force of the citizens of this country a power that could not be resisted or gainsaid. Accordingly, the club accepted as the sphere of its activity, as the province of its political influence, the sphere and province of public opinion; to invade, to influence, to control the public opinion of this metropolis, and, through it, of all the associations throughout the country, of interest, of feeling, of intercourse, with which

the metropolis had connection. This was the immediate and direct purpose of the founders of the club; and they adhered to it; and they saw the consequences of their action grow up around them as they extended their connections and distributed their power through every lesser and every greater circle to which they could extend their relations.

How have we, then, brought out the results? How has the workmanship accorded with the plan? How has the work been crowned by prosperity and triumph? Why, I need not recount what was done in the direct and immediate period and efforts of the war. In all that citizens could do, by their courage, by their influence, by their labors, by their love, by their voice, and by their pen, the forces that were collected in the Union League Club displayed and impressed themselves, in this community, and all over the country. If they found a disposition among the wealthy and solid men of the city to think that these extravagant views of patriotism belonged to dreamers and should not be shared by more sober and substantial interests, we had but little difficulty in satisfying them that, if they could afford to have the Government and the Constitution of the country tumble to pieces over their business and their property, we could afford to have our ideas buried in the same ruin. From the date at which these activities were set on foot, these sentiments were awakened and enforced; from that time, doubt, irresolution, difficulty, danger, peril,—all were swallowed up in the love of country and the labor to save it.

Some of the striking methods and instances of the invigorating, the animating, the efficient power of the Union League Club are present in the minds of all of us. That great sanitary movement that was not merely a novelty in our own war but has been a lesson of charity never taught to mankind with so great force since the story of the Good Samaritan. And then, in that movement of the Ladies' Fair, in aid of that great benevolence, when this club, by

its efforts in concert with others, poured from that single instrumentality more than a million dollars into the treasury of charity and beneficence for the sick and wounded of the armies. When a great curse fell upon this city in the shape of a riot of the numerous and the strong to oppress the few and the weak; when the powerful, the learned, the developed, the wealthy race of the whites showed its pre-eminence among races, by its terrible cruelty to the few blacks that held their place as fellow-citizens in our vast population, who was wiser or more courageous, who more effective than this club in carrying succor to the miserable victims, or vengeance and punishment to the wretches who were the perpetrators of the violence? Is there anyone who—in looking back,—anyone in this city—I do not care what his feelings, what his association, what his disposition may be,—is there anyone that looks back upon that occurrence but is filled with horror and shame at the riot, and with respect and affection for this club in its efforts to suppress and to punish it?

Another most notable instance in which we served the public good was in the bold, courageous, and unflinching course which we adopted in reference to the organization of the black regiments to aid the cause of the country, when no band of music, even, could be found in this city that would, for love or money, lead the march of these regiments, though the Union League Club offered that between these haughty trumpeters and these noble soldiers two hundred of the best men of our number would march through the city. No, not even then could a trumpeter be found that would raise the martial strains of the liberty-loving people of this country at the head of the colored men that were going out to fight for it. But when the band of the Government and the escort of this club and the thousands of citizens under our lead, did march down at the head of those black regiments, what triumph was ever greeted with louder cheers or more

numerous waving emblems of enthusiasm, than through the length and breadth of Broadway followed the negro regiment! What more distinguished company of ladies—distinguished in all social relations, distinguished for all the charities and benevolences of society—ever gave colors to a regiment—in England, in France, in Germany, or in this country—than the ladies who from the balcony of the Union League Club handed their colors to that first negro regiment?

This shows, too, gentlemen, how completely an organization that is unselfish, that is quickened by intelligence and animated by enthusiasm, can, as in the brief changes that I have described, turn hatred and coldness into favor and respect. And now, all through the country, from one end of it to the other, in all classes, in all places, North, South, East, and West, who is there, what neighborhood is there, that is not nearer in feeling, to say the least of it, with the Union League Club, on that day, than with the trumpeters that would not lead a negro regiment to the war?

In the year 1864 an effective movement, and one most needed, was started, under the auspices of the Union League Club, to fill up the strength of the army, then in its last struggle with the Rebellion. This club, of itself, counting its recruitment of the negro regiment that I have referred to, and of the white regiments, put into the field itself, with its resources, its money, its means, its efforts, its organization, its encouragement, its lead, six thousand men, to make up its share and contribution to the tide of triumph under which the Rebellion was then finally to be drowned. As I look at the records of these transactions I cannot find that there was any measure whatever to the efforts, to the contributions of labor, of zeal and of money—any limit or measure whatever, except an ascertainment of the measure of the difficulty and the demands of the task that was before them. The Union League Club never took its hand from the plow in any furrow that needed to be run through that Rebellion. And then,

by a wonderful union of our patriotism and cuisine, in November, 1864, we distributed the luxuries of this club, in the shape of a Thanksgiving dinner, among two hundred thousand soldiers at the front. There have been other notable forms of hospitality recorded, of kings and nobles, and of the merchants of Tyre and Sidon, of London and of New York; but I venture to say that never was there a more gracious hospitality, never a more generous host, never a larger or nobler company of guests.

But the labors and the duties and their fulfilment did not cease with the close of the war. The duties, the difficulties, the dangers that beset the transition from war to assured peace, after a struggle out of which two such prodigious results had been brought forth, as, first, the conquest of one half the people by the other, and, second, the social change by which an abject and servile race were freed by external force and made sharers in all the welfare and the duty of citizens,—these difficulties and dangers, I say, would impress and did impress upon the Union League Club the conviction that, in their field of public opinion, they had even greater tasks before them, and needed even greater resources than they had brought to the service of the war. It is matter of record in the political annals of the country, that this club took a most active, most interested, and most zealous share in the political transaction which made, by the adoption of the Thirteenth Amendment, liberty the universal and perpetual law of this country, as by the armies it had been made the universal and irreversible fact. I need not insist upon the magnitude of this transaction, nor upon the narrowness of the majority by which, either in Congress or before the states, it was carried. It was done. It never can be undone; and the share that the Union League Club had in this great civic and political transaction never can be obliterated and never can be forgotten.

Reconstruction, or “restoration of the States,” to use



Mr. Lincoln's fertile phrase, "to their true relations with the country,"—that was a great labor. I remember, in the first year of the war, a little child of mine was reading in the Prayer-book the invocation for blessing on the President of the United States and all others in authority, and, by the childish slip of a letter, read it: "Behold and bless thy servant the President of these *Untied* States." I had never known a better description of the situation,—these *Untied States*, that, by the slip of a letter, were to be made again these *United States*! It seems easy and natural, now that it has been done, but no task has ever been imposed upon statesmen, since the duty of Moses to lead the children of Israel out of Egypt, so great as that which was to carry this nation through that stress of war and social upheaval and bring it out reunited, with an unmutilated territory and an uncorrupted constitution.

In the year 1863, in the darkest days of the war, I had occasion to say in England, to an eminent statesman there, that, while we should have been glad of the intellectual opinion of the public men of England that our country would be successful against the Rebellion, and while we thought that we were entitled to their *moral* support, at least, in our attempts to establish and maintain liberty throughout our land, that those, nevertheless, were in their own control, but that we did insist, and should insist, that as to interference, by action or by permission, by oversight or by purpose, even to the jostling of a hair in that struggle,—we never should forgive it, and always should seek its redress. I had occasion, while insisting that the result was certain, that the Rebellion would be suppressed and the Government in all its authority maintained—to say to that statesman, that it was not to me surprising that the statesmen of Europe should not be of that mind, for, as I said to him, no government of which they, either in ancient or in modern times, had had an example, had ever been able

to suppress a revolt which included so wide a territory and so vast a population. Yet, while we in America knew that the task was too great for any government constructed as the European governments were, that, in one constructed as ours was, and in the very point, too, in which they thought it weakest, would be found its adequate, its immeasurable strength. It was in the frame of our polity as a Federal Union of organized states that the strength of our Government to resist and subdue the violence of civil war was most secure. If each state that went into revolt had within itself organized rebellion, each state that held to the Government had within its borders organized loyalty. And, although all the true and the faithful citizens and resources of the South were swallowed up in the array against the Government, yet, by the same rule, all the power and all the wealth and all the physical force of the malcontents and the disloyal in the Northern States were pressed into the tide and force of war which were to overwhelm the revolt. And, in closing this interview, I said that we ventured to make one request, and that was, that when we *had* triumphed over this Rebellion, the English statesmen who said it was impossible would remember that they had said so.

Another very important service, of far-reaching connections, which the club did, was in overhauling what was regarded by them as the fraudulent election of 1868 in this state, and the attraction of the attention of the Government to the need of a reformation of the naturalization laws. This measure the club energetically promoted, and this measure they saw crowned with success. It was in the standing committee of reform that these measures that I have referred to had their first consideration and presentation. The successive chairmen of that committee—and not less than any other its present chairman—have deserved and have received the gratitude of the club and of the public for these great services they have performed.

And I think we did our share also in the war against the municipal ring. What a strange condition we had got into, and what a strange set of pot-bellied tyrants this great city was subjected to! Without genius, without courage, without fame, they contrived to bestride this great community like a colossus; and certainly for some years we did not do, or think that we could do, anything but peep about to find ourselves dishonorable graves. But at last the idea occurred that those only could be enslaved in this country who liked slavery. Although, no doubt, now and then a man that ought to have known and done better yielded to the bribe of office or the bribe of *assuaged* taxation, yet the mass of good citizens concluded that they might as well drive the whole base crew off, and we did, and they never have returned—in the flesh, I mean, and not much, I think, in the spirit. At any rate, that lesson all can read; and my word for it, gentlemen, that lesson will be read by those who would like to try their hand at such cheap tyranny, quite as easily and quite as clearly as by those who mean to put down such tyranny.

Well, various minor matters we have given attention to, interesting to our city, interesting to our state, interesting to good government, interesting to the welfare and the peace and the honor of the city; but, if there is any subject in which the record of this club is firmest and most persistent, most intelligent and most courageous, it is on the topic of Civil Service Reform, and the elevation of citizenship, the lifting up of the character of our politics, the renovation of the institutions of the country. And here, again, we have evidence of how rapidly, in this community of ours, vital in every part, changes of opinion are made. Why, when this club was moving on, under the steady and courageous lead of some of the best of its members, and, notably of our eminent fellow-citizen, Dorman B. Eaton—all the world were laughing at us. We were called *amateurs*; we were called by

even more opprobrious names, at least in the intent of those who applied them. I do not know what the reverend clergy will think of the opprobrium, but we were called Sunday-school teachers, and such like! There never was such an uprising against Sunday-schools since the Christian persecution. Well, we went on and on, with line upon line, precept upon precept, here a little and there a good deal, until we have really lived to see greater unanimity among the parties and in Congress on that subject than on any other since the government was founded. I speak by the record; I am using no hyperbolical figure. I do not think there is now a man in public life but who wears the mask, at least, of a civil-service reformer, and who does not carry under his arm at least a wooden copy of Sunday-school lessons.

But we really ought to esteem—we do esteem—this as one of the great triumphs of sentiments and of opinions, and one of the great justifications of the methods of the Union League Club. Nobody has been lifted into office or into place in the councils of the nation or the state, as the champion of these movements, from this club or from its friends. But this club has learned where the power of this nation resides—in its war, in its politics, in its government,—and that is in the people themselves. We know, too, that if there is any power that is respected by placemen, it is the power of the people. While the partition of the spoils of office was the staple of our politics, the people were making up their minds that they took no further interest in that proceeding, whether it was had by Republicans or by Democrats, or by people who were by turns Republicans or Democrats, as in that proceeding was most profitable. All at once, as it were, it was found, that the breath of future campaigns was to be the will of the people, without regard to political relation, race, color, or previous condition of political servitude, in the next great contest in this land. Such, gentlemen, I verily believe to be the case; I believe that

the people of this country are tired of having placemen and patronage the principal interests, furnishing the principal events, and exhibiting before their faces the principal political characters, of our time, and they mean that the affairs of the people, their interests, their honor, the fame of the Republic, its glory and its strength, are to be the topics to which the attention of public men hereafter is to be invited.

Well, gentlemen, it was time that some such measure was taken by the people. The celebrated Jesuit traveller, M. Huc, narrates, in his philosophical travels in Asia, which he prosecuted so long, a very interesting incident, which struck him and he recorded it, and it struck me and I will repeat it. Taking every opportunity when in the company of cultivated men to inquire into the institutions of China, he once found himself at a dinner-table where scholars, and merchants, and men of high intelligence, as well as high repute, were collected. He introduced the subject of politics with a view of learning what he supposed he had never had so good an opportunity for before. With the politeness that characterizes that people, they listened, and they replied, but soon turned the conversation to another topic. He, not to be daunted, and having a certain object in view, recalled the conversation to the subject of politics, and insisted upon more response. The same politeness and the same indifference followed. Again he recalled attention to the subject, and then with some exhibition of interest on his part which could not be refused attention. Upon this the gravest and wisest and most benevolent of the company turned to him, and, putting his hand upon his shoulder, said: "You seem to take an interest in these political matters to which you direct your inquiry, but we have and feel no interest whatever in them. We have *mandarins* that take care of all those things for us." And now, as I understand it, about the time that we waked up on the subject of rescuing our politics from degradation, and of the elevation of citizenship, and the

lifting up of the government, we had got our affairs, about as fully as the Chinese, into the hands of *mandarins*, and had concluded that politeness, and indifference, and attention to selfish pursuits, was all that was left to the good citizens of this great Republic, under the sad course that politics had taken under our free institutions.

Why, gentlemen, there are no institutions in which it is easier to be slaves and poltroons than under free institutions; there are no institutions where less of ability, and less of courage, and less of sagacity, is necessary, than with a free people who are willing to be enslaved. But now there are no mandarins in any of the halls, and there are no halls that are open to any of the mandarins. No party prides itself now upon having mandarins, of whatever color their buttons may be. No party dares to face the other party before the people of the United States, if it be understood that one party adhered to the exploded system, and the other is in revolt against it. If anyone doubts this, let him read the returns of the last election in the State of New York.

The successes of the past, gentlemen, are both an incentive and an encouragement to our labors in the future. The steps by which the suffrage was subjugated, the steps by which public abilities, public character, public services, became so insignificant a factor in the public life of our people, compared with the crafty concert in the interest of place, of patronage, were gradual and slow, but the usurpation had become complete. The effort of our day, the duty of this club, the duty of all organizations of honest citizens in every political party, in every connection of life, is to redeem the suffrage from this subjugation, and restore its life; to lift from this degradation the public service of the country, and to adorn it with the great talents, with the great conduct and the great patriotism which are in larger mass the possession of this nation than of any other nation in the world. It were too tedious and too inopportune to point out the

methods by which this great task is best to be performed. I feel sure, however, that to accomplish, or to give promise of accomplishing, great results in the direction we desire, it is necessary that all movements affecting the public mind and public action should work in these three principal lines:— The first is that the suffrage should be invigorated by directing its attention to the election only of the principal officers, and to the lodging of power and commensurate responsibility for the exercise of that power, within its sphere, in the same hands.

Another principal method is, to discard more and more all that has personal or party relation to the administration of place and patronage, and to place the service of a great and free people as a matter of the common right of all citizens, with no other duty than of being loyal to the government, capable and honest in the discharge of the particular function. It seems to some that this is like the fabled tasks of mythology, that will always be beginning and never ending; but, nevertheless, these tasks if never begun and never pursued will never be accomplished. In this review of the vast changes that concerted, disinterested, and intelligent combination and action in the history of this club have produced, as shown in the great labors of the war and of the reconstruction of the country, who is there among my hearers, who is there among the members of this club, that is not willing to bear a hand to turn the smile of derision and the doubt of distrust, with which such schemes of better politics are too often greeted, into triumph and prosperity as we have done so often heretofore?

Another and third point we must aim at is, to treat all persons, vested with authority, with habitual deference and respect, and to exact that from all upon whom we have influence, and from the press, so far as we can control it. It is too much to expect that any government can be wisely and highly carried on on the principle of habitual derogation by the people

of office and personal detraction of its incumbents. There is no human nature that the world has ever seen, there is no human nature in an instructed, elevated, and developed community like our own that can long stand the wear and tear of promotion in the good opinion and the suffrage of the people being merely an elevation to a perpetual pillory.

The early deliberations of the founders of this club show how high and sincere a view they took of the American character and of American institutions. They, in their fervor of patriotism, were ready to feel that the glories of personal character and of public achievement that could be found in our own history, from the first planting of the colonies, through the slow development of the populations, and in the struggle of the Revolution, and in the framing of the Constitution, and in the building up of a nation from a feeble beginning, contained as much that was worthy of the admiration and the homage of Americans, as any of the fugitive and nondescript achievements that had handed down a *title* from generation to generation in foreign lands and made up the distinctions of their social life. They felt that if the Continental Congress and the Convention that framed the Constitution were the study and the admiration of the statesmen of Europe; that if their greatest thinkers had pronounced those two bodies the greatest and best assemblies of men that the world had ever seen; that if the war of the Revolution had furnished a hero whose fame took possession of the whole world; that if, in Washington, we had given to the world a character, which, in Mr. Webster's forcible phrase, "had changed the whole basis of human greatness in the minds of men," we could afford to feel that our own country, its institutions, and its men, were sufficient for us to treat with our admiration and to strengthen with our homage.

Gentlemen, it is not saying too much to say that the spirit that founded this club planted its roots in the love of country,



and that the love of country has been the dominant sentiment and the vivid force that has kept us together, and the love of country is to be the vital influence, the animating spirit, that is to carry us on in the future. We do not fairly estimate the greatness of these our civil and social institutions, founded, as they are, upon the imperishable nature of man, and framed in unison with the moral government of the world. In the hundred years of national life that we now look back upon, what lineage of the world's rulers can furnish, for the same period, such a list as that of the Presidents of the United States? What hereditary Chamber the force, the character, the courage, the achievements, which our elective Houses of Congress have presented? What government ever before even dared to admit the conception of raising a judicial tribunal over rulers and law-givers and people alike, to the end that its reason should be the final will of the state? What people, where what are called the governing classes laid the taxes, ever produced statesmen of the courage and wisdom that could pay a national debt, as we have done, when all political power is in the mass of the people, and those who pay the taxes breathe the breath of life into every one of their public servants? It is indeed becoming in us, when we thus are asked to yield to this love of country wherever it may carry us, to have some just estimate of the country for which we have this love. Then indeed, as it seems to me, we shall feel that we are no empty enthusiasts, but shall say, with the great Apostle, when he fought against the principalities and powers of evil: "So fight I, not as one that beateth the air." Indeed, for a country with such institutions, and such a history, and such a prosperity, and such a future, we are justified in feeling, as Pericles did for Athens, "a lover's enthusiasm."

### XIII

## SPEECHES AT THE ANNUAL DINNERS OF THE NEW ENGLAND SOCIETY OF NEW YORK

### NOTE

Thoroughgoing New Englander as he was, one of the first steps Mr. Evarts took, to establish relations in the city in which he intended to follow his chosen pursuit, was to join the New England Society of the City of New York. In this Association he was always very much at home. The society honored him by his selection as orator at the celebration in 1854, and subsequently he was chosen president, succeeding himself in that office for several years. No record remains of any speeches made by him at these dinners during the time of his presidency.

In a speech of great charm and eloquence at the New England dinner of 1905, Mr. Choate, in speaking of "The Society Fifty Years Ago," makes this allusion to Mr. Evarts: "Many of you remember his sparkling wit, how it lighted and enlivened all the meetings of this society of which he was the life and the soul for many years." In the same speech Mr. Choate repeats Mr. Evarts's greeting to him when he presented the letter of introduction from his famous kinsman, Rufus Choate: "Join the New England Society and come into my office;" and Mr. Choate generously added, "and my fortune was made."

Of the six New England Society dinner speeches that follow that made in 1869 may be thought to be of too trivial a nature to be included in this collection. But this short speech was clearly impromptu and with all its trifling and its puns contains a serious note as to the duty of the profession in the conditions at that time existing under the corruption of the infamous Tweed Ring.

SPEECH AT THE DINNER OF THE NEW ENGLAND  
SOCIETY DECEMBER 22, 1865

In response to the toast:—THE CONSTITUTION AS IT IS.

*Mr. President and Gentlemen of the New England Society:*

You have saved this sentiment for the last, yet at the beginning of the war, this toast "The Constitution as it is," would have been one of the first.

But, as has been the habit tonight, before we take up the proper topic of speech, I beg to say a few words about those that have preceded me. And allow me to say, I regret the absence of his Honor, the Mayor-elect, for I had some observations to make concerning one or two passages in the speech he made. He spoke to you of this great, beautiful, virtuous and prosperous city and referred to it as being washed by two rivers. Well, certainly, gentlemen, there never was a city that wanted more rivers to wash it, and certainly this city is washed by nothing else. But what shall we say of the rivers? A poet celebrating the dirtiest city of Europe, which nevertheless sends its perfume throughout the civilized world, speaks of it thus:

The river Rhine, as is well known,  
Washes the City of Cologne;  
But tell me, all ye nymphs divine,  
What power shall henceforth wash the river Rhine?

Now, we have had a tribute of gallantry and admiration for the women of New England, the mothers of the Puritan race, and praise for their heroism; and the simple fact is that the women had all the heroism of the men, for whatever of toil or hardship the men bore, the women bore; for the women bore the men.

The secretary of the treasury has been very justly excused in preserving the silence which was his choice, by reference to the great number of true and beautiful notes he has issued. But, what shall we say of that great wag,—the Recorder—who sometimes has to tell the men who issue false notes that he gives them the poetical punishment of sending them to Sing Sing!

The Constitution as it is: is, however, recognized now as a thing of admiration, in the exaltation of its supremacy throughout this land; for it had got to be in the estimation of many but a mere parchment delusion. It was held, in the practice at least, if not in the theory, of a large part of our people, to be an instrument to govern the patient and law-abiding people of the free states, but to be of no force and power over the lawless people of the South, in their violation of civilization and of duty.

Let me ask your attention to one or two noble examples, to show what cause we have now to congratulate the country upon the Constitution as it is. In the State of Georgia an humble missionary, teaching religion to the Indians, was imprisoned by the grasping municipality of that powerful state; imprisoned in the scene of his labors and buried there after his life had closed. New England took up the case of this man, and your Supreme Court held, and announced its judgment, that the judicial sentence of the state was void and issued its mandate to release him. But Georgia scoffed at the Constitution and derided the Supreme Court and asked, where and what is this visionary supremacy, and kept him in prison. We bowed our heads in shame for the power of the Constitution!

But in this war another citizen of Massachusetts, fighting Joe Hooker, from above the clouds, shows to the state of Georgia on Missionary Ridge, the scene of Worcester's labors and the site of his grave, the power of the Constitution as it is.

Then, again, in the interests of humanity and in support of the supremacy of the Constitution, Massachusetts sends an honored citizen\* and an able lawyer, to test the rights of imprisoned blacks, in the city of Charleston, under the Constitution of the United States. But this honored man was driven by violence from Charleston and hissed at with contumely through its streets, and South Carolina scoffed at the supremacy of the Constitution and derided its power. Now, Charleston is a heap of ruins, stamped upon and pressed out by war, and South Carolina is drawn under its armed heel, and another man, with the blood of the race of the New England family of Sherman, tells the people of South Carolina that he will show them what your toast means, when he gives them **THE CONSTITUTION AS IT IS**.

The mandates of the Supreme Court hereafter will need no memories but of this war to give them their supremacy and the children of New England hereafter, all unarmed, shall travel throughout the length and breadth of the State of South Carolina.

Then there is one other suggestion; we had in the course of the war this happy expedient for regenerating and restoring the Constitution and the dignity and the honor of the country, which was to leave New England out in the cold and build up a great republic without her aid and presence, of which slavery should be the material grandeur and poltroonery the immaterial standard, and, certainly, judging from the hot water in which such a community must always be, it would have been better for New England to have been left out in the cold.

There was an old custom of the aborigines of New England, that when a young chieftain approached the age when he should assume the position among the warriors that belonged to him, to take him apart from his tribe and leave him in the

\* Samuel Hoar of Concord, Massachusetts, the father of Senator George F. Hoar and Judge Ebenezer Rockwood Hoar.

cold, with hunger and solitude, for the period of a year, and then his father and his nearest friends, when this period of his trial had passed, brought him in to his home and comforted him with food and clothing, and gave him the weapons of a chief, and crowned him with glory, pride and honor. And so our fathers and our nearest friends have left us of New England in this trial out in the wilderness, with hunger, poverty and cold, and now our nearest friends have brought us back to the wealth, the pride and the domain of our possession and put upon our heads the crown of our life to be worn by us eternally.

But nobody was ever left out in the cold, as those of the *Mayflower* were left, on that 22d of December, on the bleak shores of New England, with savage nature around them and more savage men their only neighbors. And of that company of a hundred and one, in that first winter, that they were thus left out in the cold, more than one half perished and were buried. Now their descendants look out seaward upon the setting sun, as their fathers did upon its rising brightness, and the blood of the New England pilgrims beats in the hearts of ten millions of people.

If this result had happened, from leaving that timid, feeble band of men out in the cold, on that December day, what would be expected from leaving out now the educated and powerful company of New England population, to make their own empire unreduced, unrestricted and undisgraced by any participation with slavery forever.

Now, Mr. President, in another sense we speak of the Constitution as it is, as the crown of its fame, as consistent with the first principles of duty and of liberty. See how we have been carried through this contest with slavery. When our Constitution was first made, by a contemporaneous act our fathers devoted every acre of land, that the nation possessed, to liberty forever, by the famous Northwestern Ordinance. See how, just a little later, their degenerate

sons gave up, in the Missouri Compromise, one half of the public domain to slavery and paid down one state out of the balance to ensure the residue. Then, just one generation later, their more degenerate sons of 1854 repealed this partition and gave up every inch of land we possessed to slavery.

See now the result. The next thing is, an attempt, under this new basis, by force to fix itself on the land of all our descendants and, that accomplished, we should have universal slavery all over the land. But we knew the evil that had been done, before our eyes and by ourselves, and as a people we undertook to stop it. And now, by an instrument more solemn and more supreme than any ordinance, we have vowed that, for once and always in this our land, slavery shall be prohibited, and we have given to the Federal power the authority to use the full power of this country in maintaining this as the supreme law of our land.

And now, gentlemen, that being done, this Constitution will secure to the future the results of the war. Our Constitution was adequate, is sufficient, and is all-powerful, to maintain the peace of the nation and the liberty of black and white in every part of this country. We may resume our power and glory under this Constitution which no longer contains any elements of discordance. When that great statesman said thirty years ago that we had one country, one Constitution and one destiny, he spoke but the language of rhetorical prefiguration, turned to glorious prophecy, rather than a description of our actual condition. For what shall we say of the oneness of that Constitution which had two interpretations, so bitterly hostile, and so thoroughly repugnant to the very first proposition contained in our sacred instrument. What should we think of the oneness of that country, under whose laws slavery was gradually being destroyed by slavery; what should we think of the oneness of that union which seemed to be approaching

eternal separation! But the glory of our arms and the firmness of our souls have given us now one Country, one Constitution and one Destiny indeed!

And now, Mr. President, let me give you as a sentiment,—  
Our Country with New England in it, and New England men  
and New England principles all over it.



SPEECH AT THE DINNER OF THE NEW ENGLAND  
SOCIETY DECEMBER 22, 1869

In response to the toast:—THE BAR OF NEW YORK

*Mr. President and Gentlemen of the New England Society:*

I regret that the unexpected absence of a distinguished lawyer compels me to take his place and to speak to this audience, so mindful of us, for a long-suffering and an unpopular profession. Long-suffering, gentlemen, you may well understand, for we have a share in more *trials* than all other professions together. Unpopular, for we are the means of bringing more *judgments* upon the people than all the rest of the community besides. And yet I advise you to cherish the bar. What is a bar without tenders? And the only tenders that our love of law permits us to yield our acceptance to, are legal tenders. So great are our hardships and privations, so long and arduous the unrewarded labors of our profession, that it has long been noticed that you cannot make good lawyers out of rich men. Do, then, the next best thing—make rich men of good lawyers.

Mr. President, among the heroisms which this occasion brings to notice and applause, who can expect the homely services of our craft to deserve or to receive much notice? Your whole board of officers is a collection of heroes. There is not one of them but that is willing to meet, when occasion shall call—perhaps I should add, there is not one of them who does not deserve—martyrdom; and yet I have known them never to be exposed to any graver form of that suffering than to be roasted by your merciless lampoons at their expense, or drowned in the laughter that followed them.

The lawyer is driven from politics, because there is no politics. They have suffered an eclipse—not total, to be sure, but annular; nothing but a *ring* visible. Even in the

circumscribed sphere of the city government they suffer abuse indiscriminately—too much so, as has been pointed out by his Honor, the Mayor; for who, with his eyes open, would ever call a mayor or an alderman of this city a Dogberry; who ever saw a dog buried by any of them? And, gentlemen, contrary to the general impression, the members of the city government are not ignorant—nay, they are the very cream of philosophers; for not even Laputa was reigned over by a government of which all its members dealt so largely in *abstractions*, as do the members of the city government of New York.

And now, Mr. President, having said everything that sober reason can suggest at this late hour of the night, let me add that the bar of New York, with your support, has before it a duty which I am persuaded it will not neglect. Always in the past history of the profession, in the mother country and in our own, it has been ready to espouse the cause of right and the protection of men's rights against whatever danger, whether it was the frown of a king or the rage of the people. And now a greater duty, a heavier labor, is before us. It is to meet and combat, in every station that affects the popular welfare, corruption, corruption! With their aid and your support, this community can be rescued from that vilest of servitudes; without them, we must bend our necks together in a common shame.

SPEECH AT THE DINNER OF THE NEW ENGLAND  
SOCIETY DECEMBER 22, 1871

In response to the toast:—AMERICAN DIPLOMACY AND THE  
TREATY OF WASHINGTON; ITS LAST AND BEST FRUIT. NEW  
ENGLAND MAY POINT WITH PRIDE TO HER SHARE IN IT.

*Mr. President:*

A man is never called upon to leave his country, upon a service which attracts the attention of his countrymen, without noticing a great increase of festivity at his departure, and I find that in this New England Society, where I am so much at home, and where I have received so many evidences of your favor and acceptance, that the heartiest applause attends me when I am about to depart from among you.

It is the part of prudence, Mr. President, in counsel, in a lawsuit, not to talk at random and at large about his cause; but it is always permissible that in the company of his clients he shall express himself freely; and knowing that you all occupy that position in this great lawsuit, and knowing that what we say here tonight is among ourselves and will not go any further, from the characteristic prudence which marks the New England character, and from the habit of our press to restrain itself within those bounds that can be communicated with only by the English language, I am happy in feeling that this is a private consultation. For this cause of ours interests, as parties, all who speak the English tongue; it interests, as parties, all who love the English race; it interests, as parties, all who are disposed to show that the reason of the English-speaking nations is adequate to preserve that peace among them for the preservation of which armies are resorted to by other nations.

Now, Mr. President, I think there are some features about this great negotiation, about the constituted tribunal and

the appeal to law, as it shall be expounded, and accepted, and enforced by reason, that are worthy of a moment's attention, from the special circumstances in which our nation was placed in entering upon this resort between two great powers, adequate for any trial, by any method, of the grievances and injuries that were complained of. This nation of ours had just emerged from a war, the dimensions of which had thrown into the shade all wars with which we were familiar. We had exhibited to the world and to ourselves a strength of arms, and power, and numbers, and a reach of wealth and ingenuity of invention, and persistence and courage, crowning all with the completeness of triumph, that might have inclined any nation to seek that method of solution for asserting its rights. When before, in the history of the world, have you found a nation thus conscious of its strength, thus confessed by the world to be pre-eminent in resources, humbly and rightfully asserting the principle that wisdom is better than weapons of war? If, under these circumstances, principles of justice and of religion can curb passion and resentment, then all the united power and feelings of the nation assert that republics, proving themselves, against the maxim of politicians, to be more adequate for the stress of war than any other form of government, yet have a greater love of peace—true to the general principle and basis of their common right and of their equal governments, that it is formed for peace and for the prosperity and happiness of man.

Indeed, you may search diplomacy in vain for a nation situated as ours was, and penetrated in all its parts by the deepest sense of the grievance it had suffered, with the strongest impression of the injustice that had been exhibited toward it, and smarting all over with the practical wounds that had been inflicted by that injustice—a nation thus in its sentiments aroused, cool enough, sober enough, and just enough to make the attempt to exalt that reason, which is

the ruler of the world, into a formal court to administer justice between two great suitors like the English and American nations. You have here a refutation of all the forebodings and philosophy of politicians and of critics, that this American republic, when it had once drawn the sword and was flushed with victory, would be a menace and danger to the peace of the world. On the contrary, we have exhibited the highest, the most noble, the most unprecedented devotion to peace, to justice, and to reason. Whence do we gather all this national sobriety and strength? Whence, but from those principles which lie at the foundation of our institutions, planted in New England, and extended through our whole territory? It is not liberty which nations worship; it is not liberty as an end, which nations strive for, that has been the guide and the impulse of American institutions. It is not liberty as an end, but as a means; it is liberty to man, that he may do his duty to God and his fellow-men. It is not freedom *from* duty, but freedom *for* duty, that is the principle of American liberty.

Sir, this principle cannot be sustained upon a mere attention to rights. The equality of rights of itself will not build up a community or a nation. It is equality of rights, community of interests, and reciprocity of duty that we are taught in New England institutions, and it is that combination, which we now seek in the principles of this treaty and in the practical execution of them by a court of arbitration over these nations, that we intend to extend, so far as our influence and example can go, to the larger area of national relations. Nations have always been held by publicists to have the highest right; but we understand the civilization of our age to embrace for them, as moral persons in their national capacity, this community of interest and this reciprocity of duty, which require from them in all the government of national affairs, an attention to those duties and the performance of them; and, in a deliberate inquisi-

tion in the eyes of all the world, we ask a deliberate sentence of approval or condemnation.

Now, if in human affairs you can find a larger, a nobler, a greater promise for the future of the world than in this great international act, you are more enthusiastic than I can pretend to be.

You have said, Mr. President, that you took some pride in the share New England has in this matter. It certainly has been a little odd that, when the country was resorted to, and in a very proper disposition, to furnish a contribution from its various parts, having the confidence of their own regions and interests, it should turn out that all who take part on behalf of this nation in this matter at Geneva, are natives of New England. Mr. Adams, our celebrated representative at the Court of St. James, Mr. Cushing, Mr. Waite and myself, and Mr. Davis, the agent of the government in this inquisition, are all natives of New England; and if it be a reproach to us that we have taken an undue share of this representation, I am afraid it is a reproach that in many branches of the public service we have had to bear in various ways. It is enough that we have not had any share in this selection. It is enough that, if we were born in New England, a good share of us have preferred other parts of the country to live in.

And now what shall be the result? What can it be but justice? What can it be but in itself a great instance of national conduct on the part of England, our mother, and ours, her daughter? What can it be but an example of the greatest encouragement in the future for the friendship of these nations and for the peace of the world?

Allow me then, gentlemen, to give you this sentiment:

New England liberty; equality of rights, community of interests, reciprocity of duty; not too large nor too high for the government of a New England town, large enough, and high enough and strong enough to administer and control affairs between the great nations of the world.

SPEECH AT THE DINNER OF THE NEW ENGLAND  
SOCIETY DECEMBER 22, 1872

In response to the toast. "THE GENEVA TRIBUNAL OF ARBITRATION: A VICTORY OF PEACE, DEMONSTRATING THAT THE STATESMAN'S WISDOM IS MIGHTIER THAN THE WARRIOR'S SWORD.

*Mr. President and Gentlemen of the New England Society:—*

It has, I believe, in the history of our race, never been permitted that a great nation should pass through the perils of a serious internal conflict without suffering, in some form or other, an *intervention* in its affairs by other nations, that would not have been permitted, or been possible, but for the distraction of its power, or the stress to which it was exposed by its intestine strifes. And when, in our modern civilization, a nation so great as ours was pressed by so great a stress as our civil war imposed upon us, we could not escape this common fate in human affairs. It has rarely, in the history of our race, been permitted to a nation that has suffered this foreign intervention, in whatever form, to preserve its peace and the peace of the world, and yet settle its account with the nations which had interposed in its affairs.

When the great power of France seized upon the occasion of our civil war to renew a European possession upon our boundaries, and when England, upon the same opportunity, swept the seas of our commerce, properly to deal with those forms of intervention, when our domestic troubles were ended by the triumph of our arms, called for the exercise of the highest statesmanship and the most powerful diplomacy. It was at this juncture that our great minister of foreign affairs (than whom no greater has been seen in our country, and than whom no greater has been presented in the service of any foreign nation) was able, without war, to drive the

French from Mexico, and to establish the *principle* of arbitration, for the settlement of our controversy with England. It was reserved for the present administration to extricate the imperfect work of the adjustment of the differences between England and the United States from a difficulty of the gravest character, and to place the negotiations upon a footing satisfactory to the public sense of our people by the illustrious work of the Joint High Commission at Washington. It was reserved for that administration to complete, within its first term of power, the absolute extinction of all antecedent causes, occasions or opportunities for future contention between our nation and the mother country, by the actual result of the Geneva arbitration.

And now, gentlemen, I think we may well be proud of that self-contained, yet adequate, appreciation of our power, of our right, and of our duty, that could thus, while abating not one jot or tittle of our rights, compose such grave differences by the wisdom of statesmanship, instead of renewing the struggles of war. I may, I think, recognize in the general appreciation by our countrymen of the excellence of this great adjustment between England and the United States, their satisfaction with this settlement, which, without in the least abating the dignity or disturbing the peace of England, has maintained the dignity and made secure the peace of the United States. I think I may recognize in this general satisfaction of our countrymen, their conviction that the result of the Geneva arbitration has secured for us every point that was important as indemnity for the past, and yet has so adjusted the difficult question between neutrality and belligerency as to make it safe for us, in maintaining our natural, and, as we hope, our perpetual position, in the future, of a neutral, and not a belligerent.

The gentlemen to whom were entrusted, by the favor of the President of the United States, the representation of our



country in this great forensic controversy, have been somewhat differently situated from lawyers, in ordinary lawsuits, charged with the interests of clients. For, as we all know, the interests of the client and the duty of the lawyer are, for the most part, limited to success in the particular controversy that is being agitated, and, therein, the whole power of the lawyer and all his resources may be properly directed to secure the completest victory in the particular suit. But, when a *nation* is a party, and when the lawsuit is but an incident in its perpetual duty and its perpetual interests, in which it must expect to change sides, in the changing circumstances of human affairs, it is very plainly its interest, and the duty of those to whom its interests are entrusted, to see to it, that in the zeal of the particular contest there shall be no triumph that shall disturb, embarrass, or burden its future relations with foreign nations. In other words, when our Government was calling to account a neutral which had interfered with our rights as belligerents, it was of very great importance that we should insist upon neither a measure of right nor a measure of indemnity, that we could not, wisely and safely, submit to in the future ourselves.

While, then, there was a preliminary question of gravest importance to be determined in this arbitration—this peaceful substitute for war—"the terrible litigation of states"—no less than this, how widely and how heavily we should press the question of accountability against a neutral, and how far the question should be pressed, in the future, against us, I must congratulate the country for having received, at the outset of the deliberations at Geneva, a determination from the tribunal, upon the general principles of public law, that when peaceful adjustments in redress of wrongs are attempted between friendly states, no measure of indemnity can be claimed which at all savors of the exactions made only by a victorious over a beaten foe.

And when we come to the final award of this high tribunal, I think the country may be congratulated, and the world may be congratulated, that while we have secured a judgment of able and impartial publicists in favor of the propositions of international law on which we had insisted, and have received amends by its judgment for the wrongs we have suffered from Great Britain, we have also secured great principles in favor of neutrality in the future, making it easier, instead of harder, for nations to repress the sympathies, the passions and the enlistments of their people, and to keep, during the pendency of war, the action of a neutral state within and subject to the dictates of duty and of law. For we have there established that the duty of a neutral government to preserve its subjects from interference with belligerent rights is in proportion to the magnitude of the evils that will be suffered by the nation against whom, and at whose cost, the infraction of neutrality is provoked. We have made it apparent, also, that a powerful nation, in the advanced civilization of our age, cannot escape from an accountability upon the rough calculation, upon which so much reliance has doubtless been placed in the past, upon the unwillingness of the offended and injured nation, in the correction of its wrongs, to rush into the costs and sacrifices of war. And we have made it apparent to one of the proudest powers in the world (and there is none prouder than our own nation), that there must be a peaceful accounting for errors and wrongs, in which justice shall be done without the effusion of blood. Practically, too, we have established principles of great importance in aid of the efforts of every government to preserve its neutrality in trying and difficult situations of sympathy. An error long provided, that if a vessel, in violation of neutrality, should escape to commit its ravages upon the sea, and should once secure the protection of a *commission* from the offending belligerent, that that was an end of it, and all the nations

of the world must bow their heads before these bastard flags of belligerency. But the tribunal has determined, as the public law of the world, that a commission from a belligerent gives no protection to a vessel that owes its power and place upon the seas to a violation of neutrality. The consequence is, that so far from our success in this arbitration having exposed us, as a neutral nation, in the future, to greater difficulties, we have established principles of law that are to aid our Government, and every other government, to restrain our people and every other people, in the future, from such infractions of neutrality.

And now, gentlemen, is it too much for us to say that, coming out from a strife with our own blood and kindred, upon the many hard-fought fields of our civil war, with our Government confirmed, with the principles of our confederation made secure forever, we have also come out from this peaceful contest with a great power of the world, with important principles established between this nation and our principal rival in the business of the world, and with an established conviction, alike prevalent in both countries, that, hereafter, each must do its duty to the other, and that each must be held accountable for that duty?

I give you, gentlemen, in conclusion, this sentiment: THE LITTLE COURT-ROOM AT GENEVA—Where our royal mother England, and her proud though untitled daughter, alike bent their heads to the majesty of Law and accepted Justice as a greater and better arbiter than Power.

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SPEECH AT THE DINNER OF THE NEW ENGLAND  
SOCIETY, DECEMBER 22, 1877

In response to the toast:—THE DAY WE CELEBRATE!

*Mr. President:*

Ever since I have been a member of this society, which is ever since I have been a resident of the City of New York, it has been the same day that is celebrated, the same people that celebrated it, and they have celebrated it in the same way. It must have been a great day that would bear so much celebration. They must have been a great people that could celebrate it, even to their own satisfaction, so often; and they must have had a very good way of celebrating it when it could have maintained its freshness so many successive years. I have taken part myself in a good many of these celebrations, and have furnished my share of the gratification or amusement of the occasion. I have laughed with you year after year at your favorite President Choate's efforts here. My labors in this behalf, full of the fidelity to the memory of our Pilgrim Fathers, have earned for me, let me say here in advance, some respect and regard for my present position and a little of the indulgence that I have extended to others is all I ask for myself.

Now, there are several considerations about a New England dinner speech which relieve it from embarrassments. In the first place, our New England ancestors, and their descendants, for the most part, have always held that it was what a man did, and not what he said, that was of any account. Besides, it was always understood that whatever was said in this room never went any further; and thirdly, that no man was ever to be called into question elsewhere for what he said here. A New England dinner is favorably known, no doubt, in the luxury of your accustomed celebrations,

regarded only as a dinner of courses; but it is as a dinner of discourses that it has its greatest fame. All opinions, provided they concur in praising ourselves and our ancestors; all criticism upon others, provided they do not disparage our own superiority; all homage to the rest of the country, and, in fact, to the rest of the world, if it only be compatible with the supremacy of the little corner of it from which we come—this classification, New England first and the rest of the world next, we consider a sufficient honor to them; we only wish we could do better justice to ourselves. And now we have a great deal to admire in what we see before us here, and that is an emotion which all can equally share. It needs no mirrors for the display, for each New Englander, looking upon each other New Englander, sees the reflection of the noblest specimen of humanity. Now, it is not at all surprising, to us who have studied the subject, that we have these opinions, but it is surprising that the rest of the world is ready to take us at our own words, and that, perhaps, is the reason we don't think so much of the rest of the world.

New England, I observe, while it retains all its sterling qualities, is, nevertheless, moving forward in the direction of conciliation and peace. I remember, when I was a boy, I travelled two hundred and forty miles by stage-coach from Boston to New Haven, to avoid going to Harvard University, which was across the bridge. It was because of the religious animosities which pervaded the community, and I suppose animated my youthful breast; and now I come to a New England Society dinner and sit between the two presidents of those renowned universities, who have apparently come here for the purpose of enjoying themselves, and of exhibiting that proximity is no longer dangerous to the peace of those universities. No doubt there is considerable warfare going on between them as to the methods of instruction, but to us who have looked on, we have seen no more obtrusive manifestation of it than that the president on my left, of Yale, in

dealing with the subjects that have successively been placed before him, has pursued the method of that university, its comprehensive method, that takes in the whole curriculum; while on my right, the elective principle is exercised by my friend, President Eliot, and he has confined himself to the dainty morsels of the repast. I speak of this to show that, although an amelioration of climate or an obliteration of virtues is not to be expected in New England, or in New England men, yet there may be an advancement of the sunshine of the heart, and that an incorporation of our narrow territory in a great nation, and a transfusion of our opinions, our ideas, our purposes, into the veins of a nation of forty millions of people, may enlarge and liberalize even the views, the plans, and the action of New England.

The quest upon which emigrants from the Old World sought the New, the motives which led their migration, were, as we all know, for the most part to find an abode where they could secure abundant wealth with little labor. But the New Englanders, either by choice or guided by Providence, found a new home, which offered them nothing but abundant labor, with no wealth at all. And what has come of that, and who possesses as much of the wealth, the power, the glory, and the strength of this world as the descendants of the New Englanders, who courted labor without wealth? This narrow and barren and weak territory could say to the newcomers only this: "Silver and gold have I none, but such as I have, give I thee"; and out of that possession, out of the power of labor, out of the frugality, out of the self-denial, out of the rigorous virtues they bred, they have gone out and possessed the earth and ransacked its wealth.

Now, if there be one trait in the New England character more valuable than another, more admirable and more constant, it is this: That the New Englanders are ready to meet the duties of their time, when those duties are to be per-

formed, and at the sacrifice and the cost that the present discharge of those duties requires. It is easy for philosophers and for scholars, for poets and for people, to warm with the patriotism of ancient Greece, and to glow with the enthusiasm of future generations. The New Englanders thought at the time of the first plantation, and have thought ever since, that this retrospective and prospective enthusiasm and energy were of very little account in the affairs of this world. They have courted always the duties of the present hour; they have not disguised their difficulty; they have not retreated before their danger; they have had but one purpose—to take their share of every conflict, and honestly to bear their share of the common result. Now, if these spring-heads of New England virtue, that never will be removed from her soil, can be maintained and defended, the streams of life and prosperity to the rest of the country will never fail. Let us, then, with honest enthusiasm, without form and without ceremony, feel that it is a great thing in our continuing life that we do celebrate this day, and love to celebrate it as the greatest day in our history.

New England in itself today, within its own boundaries, is the richest, the best cultivated, the most instructed, and the most energetic portion of the land. In the country of which it forms a part, it finds a nation of prodigious energies and of magnificent proportions; and that nation, take it through and through, with all defects, with all short-comings, with all difficulties, and all dangers, even a New England judgment, censorious though it is apt to be, could not but pronounce a land of which the sternest of our New England ancestors would have been proud today. If, then, we look at this nation in its relations to the rest of the world, these few outcasts of fortune, cast upon the New England shore in a December night, being the beginnings and the foundation of the nation—this nation, it is not too much to say, finds every other nation ready to respect its power and confess its justice;

so much so, that in the preservation of the peace of the world this nation has the readiest and the safest part that ever a nation had. Nobody that is powerful desires to quarrel with it, and nobody that is powerless is it possible for us to quarrel with. Thus all our energies, all our duties, all our labors, dangers, and difficulties are within our own borders; and the New England of today, placing itself in present relations to things as they are, must determine what line of duty, what path of honor, what purposes, and what results it proposes to follow in the current questions of the day. Its duty, its temper, are not necessarily the same as they have been heretofore. The same principles are to guide, but the action may be different. We have finished a struggle that has made permanent and general in the Constitution, in the laws, in the arrangements of society, a complete admission of the equality of man, of the safety of citizenship, and of the duty of mutual love. Now, after a great civil war, greater than any nation has ever endured separately without disintegration or injury to its integrity, there are duties that do not belong to the condition either preparatory to the strife, or when the strife was in progress. We have found out what bayonets mean in this country; and you remember what Hosea Biglow says on that subject:

Lord! didn't I feel streaked,

The first time I found out why bayonets were peaked—

And you will observe that their utility is of a somewhat demonstrative character. But I think it is Bismarck who is credited with the *mot*, that bayonets are not an institution to sit down on. And so the American people, as averse as any people could be to the use or administration of bayonets, is the last nation of the world that would wish to sit down on that institution.

When, therefore, we have come to a time when, having secured every purpose of war, when, having enlisted the law



and the institutions of society in furtherance of New England virtues, that justice and duty and right should prevail throughout this land, let us accept at once what we shall be recreant and faithless to our inheritance if we do not accept—that New England opinions, New England ideas, and New England results are to make their way in this country by moral and intellectual methods. And when we talk of reactionary influences and tendencies, let us understand that if we are not willing to be patient and faithful laborers in building up the wastes of this land, if we are impatient to precipitate, that we are those that will be the leaders in reaction from the moral and intellectual processes to the finished methods of force. Whenever those methods shall become necessary, whenever justice and right shall require that defence, New England will resume her arms. But New England will not resort to animosities or jealousies in order to reach the ruder and grosser methods of hostility, when moral suasion cannot prevail. I say, then, that New England will practise in patience and in faith these methods; and if they be slow, it is because the moral position of the country, the pervasion of the whole community by character, sentiments, the diffusion of manners, of habits, of systems, is a gradual and a slow process; and the moral government and the moral forces of this world are not to be changed, even in honor of our New England ancestry.

Now, there are three questions before the people of the country today, and they are all public, all unselfish, all patriotic, all elevated, and all ennobling as subjects of contemplation and of action. They are the public peace in this large and general sense that I have indicated. They are the public faith, without which there is no such thing as honorable national life; and the public service, which, unless pure and strong and noble, makes all the pæans of free government but doggerel in our ears.

Now, in regard to the public faith, the same principles

which I have indicated as showing that we have passed the stage of antagonism, of hostility, and must reach the stage of co-operation, of sympathy, and of succor, apply to all these great questions of the public debt and of the nation's burdens. They are great burdens; they do impose great difficulties; they do include, perhaps, great dangers. We need no hostilities between North and South, none between East and West, none between debtor and creditor; we need all our resources, all our wealth, all our gold, all our silver, all our industry, and all our thrift. Bear, then, with such differences of opinion as grow out of differences of situation; make the most of brotherhood and the least of dissension; see that great and common burdens rest unequally and are to be borne unequally; see to it that there shall be no failures in that perfect disposition on the part of the wealthy and powerful states of New England, and their wealthy distributive share of the country, in bearing the burdens that rest more heavily upon others than upon ourselves. Let us remember that generous and wise maxim of Mr. Webster, who, in the bitterest of the strifes of his declining years, used no words of harshness against disputants, and was ready to say of them, as he did say, "They are not bad men, but bad reasoners."

And now about the public service. Well, on that subject it may be said that one good example teaches more than many precepts, and perhaps in an after-dinner speech the least said is the soonest mended. But, nevertheless, there should be no step backward in magistrates, in statesmen, in preachers, in teachers, in editors, in the people. We must go on. We do understand as a people the difficulties that we are in; we do understand as a people the methods by which we have reached them; and we do understand, I think, the way out of them. It may be hedged with difficulties and opposed with dangers. It touches the very life of free government; it touches the very sincerity of the public methods of the

nation. For such is human nature, that, as Mr. Burke has said (and I hope I do not too much misquote his words), "By whatever paths the great places in a state are to be reached by its public men, that path will be trod; and if the path be devious and slimy, and wicked, and horrid with calumnies and jealousies, nevertheless, if that be the only path upward, the statesman will take it." It is for you to say—you, as a people, to say—whether or no the path of your public life shall be clean and bright and noble, and ever tending upward. I believe there is great good fortune in this people that, to start with, you have a President who has never pursued any devious paths, and does not propose to encourage their pursuit by others.

SPEECH AT THE DINNER OF THE NEW ENGLAND  
SOCIETY DECEMBER 22, 1878

In response to the toast: THE DAY WE CELEBRATE.

*Mr. President and Gentlemen of the New England Society:*

But for the respect which I have for your president, and my confidence in the truth of every thing that he says, I should doubt how it would be possible that you already knew that I was to respond to this toast, for I certainly did not know it until I sat down at this table. It is true that I responded to this toast a year ago, and, for aught I know, the poverty of the resources of the New England Society may make it necessary that I should respond again. All I can say is, that when the suddenness and the deplorableness of my misfortune was sought by me to be made a subject of sympathy, I was received with derision. Now, it was not on my own account that I felt it so awkward that I should have been called up to speak again upon the same toast—upon which I had said every thing that was appropriate, every thing that was interesting, every thing that was charming, every thing that was satisfactory to the descendants of the Pilgrims, and every thing that I hoped would be satisfactory to the ancestors of these gentlemen. It was not that awkwardness that I was deploring: I was thinking of the miserable condition of the Pilgrim Fathers, who had nobody else to speak for them.

Now, the "*day* we celebrate" was the topic on which I spoke a year ago. I shall now change it a little, and make it: the day *we* celebrate; and who are we? We all know who our Pilgrim Fathers were, but who are *we*? Alas! I fear that they have made us much more celebrated than we can ever make them.

Now, in New England I think they have an idea, and a

correct one, that a New Englander that is good for any thing is good for every thing. I have no fault to find with that reasoning; but the trouble in my experience has been to find out New Englanders that are good for any thing. And you may be sure of this, that when a New Englander believes he is good for something, and therefore is encouraged to think he is good for every thing, and he sees that every thing cannot be had in New England, he quits it and he comes to New York; for in New York is every thing, and the men who are good for every thing sooner or later will get it all. But "we" is a little larger in its comprehension in the celebration of this day than the members of this society or the New Englanders in the City of New York. Although every thing they have in New York is better, yet there are some things besides worth having somewhere else; and they have gone to the South and to the West and to the great Pacific coast. They have gone to the Eastern seas; they have gone all over the world; and today, wherever they are, they are included in the great "we" of New England that celebrate this day. I have remarked heretofore upon the absolute freedom of any obligation on the part of a New Englander to express his merits, or the merits of his country, among strangers. The announcement of his origin was enough to insure their respect. It is only when we are among ourselves that we are obliged to insist, with new emphasis every year, to carry forward the respect, if possible, one step further than we had advanced it the year before. And I confess that it is an undue stress to put upon any speaker, when he has really stretched his own credit for truthfulness a year ago, to oblige him—not to stretch his credit for truthfulness, for that he has already made impossible—but to stretch your credulity in believing what he says.

New England looks upon this country, as she well may, as

having been pervaded far and wide by the impulses, the sentiments, the instruction, the morality, the religion, which have been planted within the narrow confines of the old colonies, and have grown and been watered from generations there. Every thing has been progressive in this country; there have been no steps backward. Peaceful opposition never could retard the progress of these great ideas, and war, opposing war, only aroused, inflamed, and heated up these influences until they broke over the crest of war, and in the larger peace that war prepared found new triumphs for moral and intellectual influences. There was, as we all know, in the formation of this great nation by the war of the Revolution—there was a suture, so to speak, by which the slaveholding colonies, while united, were yet distinguished from this Northern country; and that suture, in the progress of our politics, became a fissure, and then at last it became a chasm. But now the chasm and the fissure and the suture have all disappeared, and this is one country, with the same freedom and the same legal and political equality all over it.

We find, then, really now for the first time since the conclusion of this great war of the Constitution, a nation at one with itself, without opposing interests, without jealousies or rival advancements, and without conflicting and uncertain alliances in sentiment or feeling with any foreign nation. We have, then, coming out of this war, but three stages of the realization, the advancement of the new national life. One is that peace which makes and knits together in one framework the hearts and minds of the people, and makes it possible that they should go forward hereafter as one united country. The next great step after mere peace, a step to be taken only after the first was secured, was in restoring the disordered relations which the war had produced in the debt, in the burdens, in the derangements financially, of society. That end has been accomplished, and now today you have a

secretary of the treasury who has put the crowning glory of restored relations to the whole world in honest money. I do not forget, as I am sure he will not forget, that you have another guest here, an ex-secretary of the treasury, who in most difficult times so well began what has now been so well carried out. And I know, as you know, that in the battles of peace, as in those of war, the man who makes the first fight may be quite as good a soldier as the man who has the last victory. It is the work that is assigned to us that we Americans do, and it is to be hoped we do it well, whether it be the great transactions of the battles of the war, or the great problems of finance, or making an after-dinner speech, on short notice, unprepared.

Now that being so, the next great step is the forward step of a united people. Sometimes statesmen have had no resource after the dissensions of a civil war were composed, but to find some new energy and excitement that could unite the once discordant forces in an advance upon a foreign enemy by means of war; but this great enlightened people know that it is better worth their while to make an advance upon the commerce of the world and suck its wealth, without destroying its future means of producing new wealth to be sucked hereafter. It was said of the ancient Romans in their wonderful polity, by which they annexed all the world to themselves by wars of self-defence, that with them war stood for trade, and by the conquest and the sacking of foreign nations they built up the great city, and the home provinces in wealth. The mischief of that was, and it was found to be, that it was but a succession of brilliant achievements in killing the goose that laid the golden egg; and we, wiser, having a secure hold upon the eggs, pamper the goose, that it may continue to lay them for our benefit. We have hitherto in this country, from this singular division between the interests of a highly commercial people at the North and an exclusively planting people at the South, had

really a rivalry as to which should have the upper hand of the other, and in that way we have had to fight for our rights to be allowed to fish, and to sell ships, and to smelt iron; we have had actually to contend, inch by inch, with half the country, to be permitted to do that. They, on the other hand, thought they had to contend with half the country for opportunity to raise cotton and tobacco, and sell it where they could get a good price for it. So in this competition we have really had an interest and alliance of our planting section of the country with a foreign nation against our commercial industries. That came to a head, and, with a great many other things, has passed away forever by the triumphs of the great civil war. The last exhibition of it was of armed cruisers, built and manned in a foreign nation, preying upon the ships of the commercial part of the Union. That was the climax, and that is over forever; and now, North and South, East and West, there is a determination to show the nations of the world that, having thriven as well as we have, with these divided counsels and these discordant interests, we will try conclusions with the rest of the world when we are ready, as we are now, to give a long pull, a strong pull, and a pull all together.

No nation before has ever appeared in the commercial system of the world presenting the remarkable features that this now united nation presents. We produce the cereals that can feed an army of workers. We produce the staples of manufacture that can feed a wilderness of machinery that devours cotton and iron, and dependent upon no foreign nation for supplies for either that which feeds the workman or feeds the machine. We are in the advanced stage of that human industry which first changed the power of nature in the service of man, and we are in a position to contend for the markets of the world, fearing neither scarcity of food nor scarcity of raw material.

Against a nation thus fully furnished, with the experience,



with the hardihood, with the skill, and with the industry of our people, you may be sure that we are a formidable combatant in the great arena of the world's competition; and by the same token we shall be looked upon with no welcome feeling by the older and wiser nations that have profited by our folly and our indecision in the past. It is for us to enter into the harvest-field and reap it. But, gentlemen, we must not keep standing first on one leg and then on the other, undecided as to which foot we shall put forward in our progress to that harvest-field. If we wish to build ships, let us build them; if we wish to buy ships, let us buy them; if we wish to sell raw material, let us sell it; if we wish to sell the products of our industry, let us sell them; but let us understand that none of these great processes are to be carried through by us in our generation except by the same enterprise, the same courage, and the same self-denial which made out of the poor outcasts from the Old World the great nation that we are to-day. It is easy to waste an inheritance, however great and however noble the ancestry from which it came. The only absolute and inexorable demand is, if the inheritance is to be improved and enlarged and transmitted to our descendants, that it must be by the maxims and conduct by which it was built up from the beginning.

Now, as I have said, the whole country is ready to manufacture. The whole country is ready to engage in commerce. The whole Mississippi Valley is wide-awake on the subject of direct trade to Europe and with South America. Every distant inland town in the valley expects to become a sea-port. Wherever I shall travel in future years, in the midst of the prairies or half way up the mountains, I shall expect to see streets—yes, streets devoted to sailors' boarding-houses. They intend, also, to feed the operatives in the factories, North, South, East, and West, in the interior. They are going to be Americans, on the American system of doing with their might whatever their hands find to do, and New York

is not to be allowed to have supremacy. Even if the fact of our being on the seaboard has given us a little advantage at the start, that can be overcome by pluck, intelligence, and enterprise. But whatever else they may deprive us of in our superiority, there is one thing which is, perhaps, more precious to New York than any thing else, which no energy, no enterprise, and good fortune in the rest of the country can deprive you of, and that is, they can never deprive you of your proximity to New England.

## XIV

### SPEECH AT PUBLIC DINNER GIVEN TO MR. THOMAS BAYLEY POTTER, OF ENGLAND, AT DELMONICO'S, NOVEMBER 17, 1879

#### NOTE.

Mr. Thomas Bayley Potter (1817-1898) was an eminent member of Parliament, belonging to the Manchester School of Liberals. His continuous service in Parliament covered a period of thirty years. He was a warm personal and political friend of Cobden and Bright, and at the outbreak of the Civil War in this country vigorously espoused, with them, the Union cause in that struggle. In 1863 he formed the Union and Emancipation Society in England to which he devoted much time and money. In the estimate of an English biographer, the most important work of his life was the establishment and successful conduct for many years of the Cobden Club, an organization, started in 1866 for the purpose of educating the people in the principles of free trade as held by Mr. Cobden.

In 1879 Mr. Potter visited this country with the object of furthering the cause of free trade in the United States. During this visit, a large number of the merchants and bankers of New York proposed a complimentary dinner to Mr. Potter to be given at Delmonico's. The dinner took place on the evening of November 17, 1879, and was spoken of in the press of the day as a brilliant and enjoyable affair. It was evidently an occasion of great good feeling and good fellowship. Mr. Evarts presided and enlivened the dinner by the wit of his introductions of the several speakers.

Mr. Potter sat at the right of Mr. Evarts and next on Mr. Evarts's left was Mr. Junius S. Morgan, the eminent American banker in London. There was a general resemblance in appearance between Mr. Evarts's two neighbors at the dinner, and in proposing the sentiment, "Americans in England and Englishmen in America: their best bond of peace and of friendship is intercourse with each other," Mr. Evarts said that he would leave it to his hearers, honestly, whether they could see any great difference between

them (indicating Mr. Potter and Mr. Morgan) but that for himself he personally felt the true type of an American to be—something between the two.

In offering the health of the guest of the evening, Mr. Evarts made the speech that follows, as taken from the report in the "New York Tribune" of the day following:

I rise, gentlemen, to take the initiative in the somewhat sad ceremonial of speeding our parting guest, who sails on Wednesday, and who, whatever may have been his motives in coming to this country, has managed well to conceal them. The ultimate object of his whole visit seems to have been that he may return. It was thought by some of the friends of the two countries—two countries that have always needed friends—that it would be a good thing to give to Mr. Potter, at the close of his short visit, a representative dinner—representative in its causes, in its representation, in its viands and in its wines; and by that I mean not in that conceited sense in which some of the men of the country think themselves superior, that they are representative men; but the company gathers here, so to speak, from the highways and byways, and the viands and wines we wished to be set before you were what you could honestly state, on your return to England, everybody enjoyed in this country and were furnished to every emigrant when he did us the honor of coming here.

We wished, also, sir, to give you an opportunity of studying the American Constitution. Your politicians and statesmen and philosophers have thought much on the subject of the American Constitution, and have wondered whether the Americans made the Constitution, or the Constitution made the Americans. Look at the American Constitution. Abstruse students have instructed your people at tedious length upon the checks and balances to the American Constitution. I wish you, sir, to spread the knowledge

through England and Europe that you have visited the American States and learned that they are—oysters, green turtle, canvas-duck ducks, these are the checks to our American Constitution.

It was not necessary for you, sir, to come to this country to learn what a good conceit Americans have of themselves. What region of the earth is not full of the good opinion which Americans have of themselves? Nor did you need to come to us, sir, to tell us that England and Englishmen put themselves above the rest of the human race. What nation is there in the world—and most of all our own—but has had the opinion of Englishmen as to their superiority forced upon them even at the cannon's mouth? But really, gentlemen, the nations are not so very different. If one has a little the advantage, it is this: While we are satisfied with the incomparable excellence of our people, the Englishmen are gratified with the unapproachable superiority of theirs. This sentiment, too, is sweet to both people, and is really one of the lubricating elements which keep all society in free and easy play. A distinguished Englishman—a thinker among philosophers—said he could not see why a man should not thank God for his self-conceit as well as for any other gift of Providence. But though that has been our failing, yet it is what made England great.

Now, really, to speak seriously, sir, before guests unaccustomed to anything like seriousness from me, but who will be ready to pardon it, we have been very, very greatly gratified by your visit, and we would have thought better of you if you had concluded to stay. The number of immigrants to this country who ever return is quite unappreciable. You had better think twice, sir, before you do so, even at the sacrifice of your passage-money in the steamer of Wednesday before you place yourself in the despised category of "returned immigrants."

I shall not think it necessary, Mr. Potter, to lay any little

stress upon the relations between this country and England—to begin with the first settlement of Jamestown, nor with Plymouth Rock, nor with the Revolutionary War, nor with the War of 1812, nor even with our late Civil War. You see it is very difficult for us to talk in this country about the Civil War that recently prevailed here without being more or less uncivil to some of our countrymen and we cannot talk about that Civil War in relation to the attitude of England in it, without being absolutely offensive. So we pass that by and come down to these later times, when the resources of this country in the way of food and clothing and the absence of standing armies or anybody that needed to be supported, who did not work for his living, have given us, the people of this country, the advantage over the rest of the world. The Civil War—not to touch upon political points or offending anybody's prejudices—brought about very great results in the way of peace. In the first place, all, probably, of the most ambitious spirits were sacrificed; in the second, the withdrawal of so many stout and sturdy laborers—for all the people of this country are laborers of all ranks—to the army set to work the heads of the few remaining citizens that were left at home to supply their place, and by invention we actually introduced a certain commercial system into agriculture which had never been introduced before. So over our broad fields the same great commercial principles that your great engines and factories with their spindles employ, were applied, and to them our vast crops over our large expanse are due. And in husbandry and agriculture men by horses and skill have accomplished the objects which manufacturers have by the aid of power. They have accomplished what power does by skilful methods of industry, and it seems impossible but that owing to the circumstances of our country which continually encourage such industry, we shall be at a continual advantage in a system which certainly needs men and means for every job of agricultural work;

but unless our people can learn to sell in proportion to our production, there will necessarily be a surplus which will have to be absorbed by the famine which is well known to prevail in the English stomach. And while that prevails it must necessarily continue that the only things which we do not keep out by protection—that is, gold and silver—will come over; and why we have not kept out gold and silver by the tariff, when we could do so much, I cannot understand. You may rely upon this in regard to taxation by tariff. We shall follow the Irishman's advice at Donnybrook: "Whin-ever you see a head, hit it"; and I don't despair of seeing a restriction placed upon the importation of silver and gold coin. Now, this is self-denial on our part. Prohibited wares are longed for. There is not a woman in America who would not rather have a thousand dollars worth of English or French products than fifty dollars worth of American. Where else do we find the energy to practice such self-denial on this extensive scale? It is one of the traits we inherit from our British ancestors, although they complain of us that we are a forward, impatient nation, always getting into everybody's way. When do they ever hear of our mother country ever getting out of anybody's way?

I give you, gentlemen, "our guest," whose acquaintance I had the pleasure of making in London in 1863, and who in the darkest period of our civil struggle, with Mr. Cobden and Mr. Bright, was strenuous, active, persistent and effective in his advocacy of those principles in which he believed at a time when the errand which I had to discharge for my government, I can well say, could not have been carried out successfully, as I believe it, but for the services of these men, their friends and adherents, the efforts they put forth and the influence they exerted over the ruling classes of England.

## XV

### SPEECH AT BANQUET GIVEN BY THE NEW YORK CHAMBER OF COMMERCE TO THE GUESTS OF THE NATION, AT DELMONICO'S, NEW YORK, NOVEMBER 5, 1881.

#### NOTE.

On the occasion of the national celebration of the centennial anniversary of the battle of Yorktown and the surrender of Cornwallis, the Government of France, upon the invitation of the Government of the United States, sent a delegation of about thirty eminent Frenchmen to participate in the celebration. M. Max Outrey, the French Minister at Washington, was chairman of the delegation, which was made up of official representatives of the President of the French Republic, of the Minister of Foreign Affairs, of the French Army and Navy, and of the *Ministere des Beaux Arts*, as well as five descendants of Lafayette and ten representatives of the families of the French Officers who took part in the battle of Yorktown. Upon a similar invitation, several of the descendants of Baron Von Steuben, major general in the American Army of the Revolution, were also guests of this country and participated in the celebration.

The state of New York, through a commission appointed by Governor Cornell, also extended to this group of distinguished visitors the courtesies and hospitality of the state, and the New York Chamber of Commerce expressed its desire to unite in the general welcome by entertaining the delegation at a banquet at Delmonico's. The invitation was cordially accepted and the festivity took place November 5, 1881.

Other guests on this occasion were, Hon. Alonzo B. Cornell, governor of New York, Hon. William R. Grace, mayor of New York, M. Albert Lefaiivre, consul general of France at New York, Dr. Hermann A. Schumacher, consul general of Germany at New York, Hon. Hamilton Fish, Hon. William M. Evarts, Hon. Carl Schurz, Hon. Frederick W. Seward, Hon. John A. King, Rev. Richard S. Storrs, and Rev. Henry C. Potter.



Upon this occasion Mr. Evarts, in the speech that follows, responded to the toast:

**THE FRENCH ALLIANCE. THE AMICABLE RELATIONS BETWEEN OUR TWO COUNTRIES, FOUNDED IN 1778 BY THE TREATY OF AMITY AND COMMERCE BETWEEN THE NATION OF FRANCE AND THE AMERICAN PEOPLE, CEMENTED IN BLOOD IN 1781, RENEWED BY THIS VISIT OF OUR DISTINGUISHED GUESTS, WILL WE TRUST BE PERPETUATED THROUGH ALL TIME.**

*Mr. Chairman and Gentlemen of the Chamber of Commerce:—*

It is with great pride, as well as with great pleasure, that I respond to a call in behalf of the merchants of the United States, as represented by the merchants of the great city of the United States, through this Ancient Guild of the Chamber of Commerce, in paying their tribute of honor and applause to the French nation, that was present, as a nation, in the contests of our Revolution, and is present, here, as a nation, by its representatives, to-day; and to the great Frenchmen that were present, with their personal heroism, in the struggles of the Revolution, and are present, here, in their personal descendants, to see the fruits of that Revolution, and receive our personal respectful greeting; and to the Germans, who were present, where they could not have been spared, in the great trials of our feeble nation, in its struggles against the greatest power in the world, and who are here, by the descendants of those heroic Germans, to join in this feast of freedom and of glory.

I felt a little doubt, Mr. Chairman, whether the etiquette of this occasion required me to speak in my own tongue, or in the German, or in the French (for I speak French and German equally well), but I thought it would be a poor compliment, after all, to talk to these Frenchmen or these Germans in their native tongues. They surely hear enough of that at home.

Well, Mr. President, the French alliance was one of the

noblest transactions in history. The sixth day of February, 1778, witnessed the Treaty of Alliance, and the accompanying Treaty of Amity and Commerce, which filled out our Declaration of Independence, and made that an assured triumph, which was, till then, nothing but a heroic effort on our part. I do not know that the 6th of February has anywhere been honored in any due proportion to the Fourth of July; but, for myself, as an humble individual, from the earliest moment, I have done all in my power to show my homage to that day, for on that day I was born.

Now we talk the most, and must feel the most, and with great propriety, of the presence of the French, and of our German aids, and of our own presence at the Battle of Yorktown and the Surrender. But what would that occasion have amounted to, either in the fact or in celebration of it, if the English had not been there? You may remember the composure of the hero that was going to the block, and felt that there was no occasion for hurry or confusion in the attendant crowd, as nothing important could take place until he got there. And so, in this past history, and in the present celebration, we recognize that it is not a question of personal mortification, or of personal triumph—not even of national mortification, or of national triumph. This was one of the great battles of the world, in which all the nations engaged, and all other nations had an everlasting interest, and from which they were to reap everlasting good. And I would like to know if the granddaughter of George III, has ever had, from her subjects, British or Indian, any sweeter incense than has just now been poured out from the hearts of the American people, who freely give that homage to her virtues, as a woman, that they deny to her sceptre and her crown as a queen. Who would not rather be a great man than a great king? Who would not rather be a great woman than a great queen? Ah! is there not a wider sovereignty over the race, and a deeper homage from human nature, than ever can

come from an allegiance to power? And for woman, though she be a queen, what personal power in human affairs can equal that of drawing a throb from every heart, and a tear from every eye, when she speaks to us as a woman, in the distress of our nation?

It was a very great thing for France to make the Treaty of Alliance and the Treaty of Amity and Commerce with a nation that, as yet, had received no acceptance from the Powers of the earth. And when we remember that France, in the contests of a thousand years, had found England no unequal match in the quarrels that belonged to the two nations, I must think that human history has shown nothing nobler than her espousal of this growing struggle between these colonists and the great power of England. How much nearer France was to England than we! How much wider her possessions through the world, open to the thunders of the British navy and the prowess of the British army! And when France, in a treaty, the equal terms of which will strike every reader with wonder, speaks of "the common cause," to be pursued until the result of our complete independence, governmental and commercial, was attained, I know nothing, in the way of "bearing the burdens of one another," enjoined as the Christian spirit, that is greater than this stupendous action of France.

The relations of blood and history that make England and us one, as we always shall be, do not, nevertheless, make it clear that there is not a closer feeling of attachment, after all, between us and France. It is a very great compliment, no doubt, in classical phrase, to be spoken of *matris pulchræ filia pulchrior*—the fairer daughter of a fair mother. But, after all, it is a greater compliment to the daughter than to the mother. I don't know that maternal affection, the purest sentiment on earth, ever is quite pleased that the daughter is taller and fairer, and more winning in her ways than the mother is or ever was; and I do know, that there comes a

time when the daughter leaves the mother and cleaves to a closer affection. And here were we, a young, growing, self-conscious, self-possessed damsel, just peeping from out our mother's apron, when there comes a gallant and a noble friend, who takes up our cause, and that, too, at a time when it was not quite apparent whether we should turn out a beauty or a hoyden. And that is our relation to France. Nothing can limit, nothing can disturb it; nothing shall disparage it. It is that we, from that time onwards, and now, finally, in the great consummation of two republics united together against the world, represent, in a new sense, Shakespeare's figure of the "unity and married calm of States."

The French people have the advantage of us in a great many things; and I don't know that we have any real advantage of them, except in a superior opinion of ourselves. God forbid that anybody should take that from us! Indeed, great as is our affection and gratitude towards the French and German nations, there is one thing that we cannot quite put up with in those nations, and that is, that, but for them, the English and we should think ourselves the greatest nations in the world. So, with all the bonds of amity between us and them, we must admit that the Frenchmen and Germans make a pretty good show on the field of history in the past, and, apparently, mean to have a pretty good share of the future of this world. In comparing the Yorktown era with the present day, we find that, then, a great many more Frenchmen came here than Germans; but, now, a great many more Germans come here than Frenchmen. The original disparity of numbers seems to have been redressed by the later immigration, and we are reduced to that puzzled equilibrium of the happy swain, whenever we are obliged to choose sides in the contests between these nations—

How happy could I be with either,  
Were the other dear charmer away.

The French are a great people, in their conduct towards us in this respect, that the aid and sympathy and alliance has been all in our favor. They have done everything for us, and have been strong enough not to need anything from us. "The fault of the French," to change a little Mr. Canning's memorable lines—

The fault of the French, unlike the Dutch,  
Is asking too little and giving too much.

Now this treaty commences with the very sensible statement, that the two nations, being desirous of placing their commerce and correspondence upon permanent and equitable grounds, His Most Christian Majesty and the United States of America had thought, to that end, it was best to place these relations upon perfect equality and reciprocity, without any of those burdensome preferences which are the source of debate, of misunderstanding, and of discontent between nations. In this spirit it is, no doubt, that we have pursued towards each other, in commerce, that most equitable and equal system, by prohibitory duties, of keeping all of each other's products out of the other that we can. Well, the Frenchmen knew, after all, that the Americans can never get along without their wines, and without their silks, and without their jewels, and without their art, and without their science, and without the numberless elegancies which make life, even in our backwoods, tolerable. And we know that they can't very well dispense with our wheat, and corn, and the oil from the earth, and the cotton to weave into those delicate tissues with which they clothe the world. So that, after all, these superficial barriers of customs duties don't really obstruct our commerce. And even if they have too much of our pork, as would seem to be the notion at present, we have no desire to dispense with their wines.

But there are some interchanges between nations besides those of commerce in the raw material, or in the products of

skilled industry. If we could make more of a moral interchange with the French; if we could take some of the moral sunlight which shines upon that great nation; if we could be more cheerful, more gay, more *debonair*; and they could take from us some of the superfluous ice which we produce, morally as well as naturally, and some of that cold resistance against the inflammation of enthusiasm which sometimes raises a conflagration among their citizens at home, we have no tariff on either side that would interfere with the blending and intercommunication of the moral resources of both nations which will make us more and more one people in laws, liberties and national glory, and in all the passions that guide and animate the conduct of nations.

I am happy to announce myself to you, gentlemen, what I am vain enough to suppose you would not suspect, that I am a contemporary of Lafayette. As one of the Boston schoolboys, I stood in their ranks when Lafayette, in 1825, passed with a splendid cortege along the malls of Boston Common. I had the pleasure as the descendant of one of his Revolutionary friends, to be presented to him personally and to hear him say he well remembered his old friend, my grandfather.

This pleasing courtesy, it may be said, was all French politeness. But I can say to these Frenchmen, that whether they believe one another at home or not, we always believe them in this country.

And now your toast desires that this friendship, thus beginning and continued, shall be perpetual. Who is to stop it? No power but ourselves and yourselves, sir (turning to the French Minister), can interrupt it. What motive have you—what motive have we—what sentiment, but that, on either side, would be a dishonor to the two nations, can ever breathe a breath to spoil its splendor and its purity! And, sir, your munificence and your affection is again to be impressed upon the American people, in that noble present you

are designing to make to us in the great statue of "Liberty Enlightening the World"; an unexampled munificence from the private citizens of one nation to the people of another. We are to furnish the island for its site, and the pedestal for the statue. This our people will do, with an enthusiasm equal to your own. But, after all, the obligation will be wholly ours, for it is to be *a lighthouse in our great harbor*—a splendid monument, to add new beauty to the glorious Bay of New York.

## XVI

### SPEECH INTRODUCING HERBERT SPENCER AT A DINNER GIVEN IN MR. SPENCER'S HONOR AT DELMONICO'S, NOVEMBER 9, 1882\*

We are here to-night, gentlemen, to show the feelings of Americans toward our distinguished guest. As no room and no city can hold all his friends and admirers it was necessary that a company should be made up by some method out of the mass, and what so good a method as that of natural selection, and the inclusion within these walls of the ladies? It is a little hard upon the rational instincts and experience of man that we should take up the abstruse subjects of philosophy and of evolution, of all the great topics that make up Mr. Spencer's contribution to the learning and the wisdom of his time, at this end of the dinner. The most ancient nations, even in their primitive condition, saw the folly of this, and when one wished either to be inspired with the thoughts of others, or to be himself a diviner of the thoughts of others, fasting was necessary, and a people, from whom I think a great many things might be learned for the good of the people of the present time, have a maxim that will commend itself to your common sense. They say the continually stuffed body cannot see secret things. Now, from my personal knowledge of the men I see at these tables, they are owners of continually stuffed bodies. I have addressed them at public dinners, on all topics and for all purposes, and whatever sympathy they may have shown with the divers occasions which brought them together, they come up to this notion of continually stuffed bodies. In primitive times they had a custom which we only

\* Taken from report of the dinner in the "New York Tribune," November 10, 1882. Mr. Evarts presided.



under the system of differentiation practice now at this dinner. When men wished to possess themselves of the learning, the wisdom, the philosophy, the courage, the great traits of any person, they immediately proceeded to eat him up as soon as he was dead, having only this diversity in that early time—that he should be either roasted or boiled, according as he was fat or thin. Now, out of that narrow compass, see how by the process of differentiation and of multiplication of effects we have come to a dinner of a dozen courses and wines of as many varieties; and that simple process of appropriating the virtue and the wisdom of the great man that was brought before the feast is now diversified into an analysis of all the men here under the cunning management of many speakers. No doubt, preserving as we do, the identity of all these institutions, it is often considered a great art, or at least a great delight, to roast our friends and put in hot water those against whom we have a grudge.

Now, Mr. Spencer, we are glad to meet you here. We are glad to see you and to have you see us. We are glad to see you, for we recognize in the breadth of your knowledge, such knowledge as is useful to your race, a greater comprehension than any living man has presented to our generation. We are glad to see you because in our judgment you have brought to the analysis and distribution of this vast knowledge a more penetrating intelligence and a more thorough insight than any living man has brought even to the minor topics of his special knowledge. In theology, in psychology, in natural science, in the knowledge of individual man and his exposition, and in the knowledge of the world, in the proper sense of society which makes up the world, the world worth knowing, the world worth speaking of, the world worth planning for, the world worth working for—we acknowledge your labors as surpassing those of any of our kind. You seem to us to carry away and maintain in the future the same measure of fame among others that we are

told was given in the Middle Ages to Albertus Magnus, the most learned man of those times, whose comprehension of theology, of psychology, of natural history, of politics, of history and of learning comprehended more than any man since the classic time certainly and yet it was found of him that his knowledge was rather an accumulation, and that he had added no new processes and no new wealth to the learning which he had achieved.

Now, I have said that we are glad to have you see us. You have already treated us to a very unique piece of work in this reception, and we are expecting, perhaps, that the world may be instructed, after you are safely on the other side of the Atlantic, in a more intimate and thorough manner concerning our merits and our few faults.

This faculty of laying on a dissecting board an entire nation or an entire age and finding out all the arteries and veins and pulsations of their life, is an extension beyond any that our own medical schools afford. You gave us that knowledge of man which is practical and useful, and whatever the claims or the debates may be about your system or the system of those who agree with you, and however it may be compared with other competing systems that have preceded it, we must all agree that it is practical, that it is benevolent, that it is serious and that it is reverent; that it aims at the highest results in virtue; that it treats evil not as eternal, but as evanescent, and that it expects to arrive at what is sought through the aid of the millennium—that condition of affairs in which there is the highest morality and the greatest happiness. And if we can come to that by these processes and these instructions, it matters little to the race whether it be called scientific morality or mathematical freedom, or by any other less pretentious name.

You will please fill your glasses, while I propose the health of our guest, Herbert Spencer.

## XVII

### SPEECH AT PUBLIC DINNER GIVEN TO SIR EDWARD MORTIMER ARCHIBALD, ON HIS RETIREMENT FROM THE BRITISH CONSU- LAR SERVICE AT NEW YORK. DELMONICO'S, JANUARY 28, 1883\*

It gives me, Sir Edward, great pleasure personally and as a citizen of New York, to represent, for the moment, the feeling of this distinguished company, which by its attendance here but expresses the feeling of all the citizens of this great centre of commerce. To be sure, to our short-lived office holders in a republic it seems somewhat stupendous to hear of a man who has served his country uninterruptedly, and always for its good and its good fame, for fifty years. Why, even in our country, for its share of your public service to the Crown, you carry us back to an almost prehistoric period. I mean, to be sure, to the time when the Democratic party was in power; but I am not sure but after you go the deluge will come and they will be in power again.

Whether in the earlier services that you rendered to your government for twenty-five years before you rose above our horizon you had as grateful and as appreciative and applaudive communities about you as you have had here, I do not know. It is very plain that Newfoundland is too far from us for us to scan or penetrate its private or its public life; but it is equally plain that we are too far from Newfoundland for you to have found us out in every corner of our character even before you got here. One of the earliest experiences about consuls and consulates that I had in the office that superintended all their affairs, was a letter which I

\* Taken from the account of the dinner in the "New York Tribune." Mr. Evarts presided at the dinner.

received from a remote town in a Northwest State, written in very good style and in a beautiful hand, in which the writer opened his reason for being made a consul in this touching introduction, which gained my heart at once. He said, "I have no excuse to offer for intruding upon your leisure or consuming the public time except a pardonable desire to live elsewhere." Now, whether your happy, peaceful and contented life in Newfoundland was disturbed by any such pardonable longing you never have confided it to me nor, I suspect, even to her Majesty the Queen. I know that your appointment came unsolicited and unthought of on your part. But really it was a very good schooling for a man that was to be thrown into the midst of these Americans, to have served, as you had, first as clerk of the Supreme Court of that Province, commencing in the year 1832, then as a member of its executive and its legislative councils, then as Attorney General from 1846 until you came here; all the while having had that advantage which I prize and which all men prize though they won't allow it—the advantage of having been a lawyer.

Lord Palmerston once, when some of his appointments of consuls were questioned, said in the House of Commons that the office of consul was one that every man supposed himself competent for—for what he had been and for what he had not been. If he were a lawyer he thought that was a good recommendation; if he had been a soldier, if he had been a sailor, if he had been an artist, if he had been an editor, if he had been a poet, if he had been a gentleman and nothing else he thought that was a good qualification for a consul. Now, that might have been Lord Palmerston's experience and all that he got out of the observation of consuls; but the people of this city have made up their minds in the converse light, that a man who is fit and has proved himself to be fit to be a good and great consul for twenty-five years, is fit for anything. It is very difficult in a great centre like this—in a

great city of the world, wherever that city may be—to be a consul that shall advance all and defend all the proper interests of one's own country, and at the same time propitiate and justify the good feeling of the other; but it is a trifle between any other nations compared with what it is between your nation and ours.

The various nations have an international reputation among nations. That I gave some study to years ago. Our nation, as all the world knows, has the reputation of always getting in somebody's way; but your nation is not so much better off in its international reputation, for your nation has the reputation of never getting out of anybody's way. Now, to be a consul and to go off without ever having allowed us to get in your way, nor allowed your nation to get out of our way, and yet have the respect and affection of the community in which you have lived, I am sure is great praise, even for a British servant of the Crown. The only way in which this can come about is not merely by your being always right, for some people get into hot water by being right; not even by being occasionally wrong, because some people get into worse predicament by being wrong. Not even much is to be conceded, I am afraid, to our good temper and our good manners—good temper and good manners which we all appreciate ourselves, but which others never take the same view of. The Roman moralist, satirist, poet, has said that it is very difficult to say common things with propriety. This is equally true of actions; it is very difficult to do common things and throw any grace and charm and eloquence into the act. But saying common things and doing common things make up human life, and being able to say them and do them with propriety, with ease, with elegance, with justice, makes the difference in private life between good manners and bad; and makes the difference between governments, and their subjects or citizens, of oppression or of confidence and alle-

giance; makes in diplomacy the difference between a bad foreign secretary, a bad foreign minister, a bad foreign consul, and a good one, of each of those functions. And it is better by far that the friction of common life and of public life should be lubricated by this oil and cheered with this wine, than that it should be embittered and soured even when the substance and the sense are all meant to be right.

But it would be an imperfect view of the difficulties, in the place which you have been called to fill, and but little justice to your mode of filling it and to the good results that have followed, if I left it to be thought that there had been a smooth and even tenor of affairs between these great countries and these kindred nations during the time that you have served the Crown and have helped and benefited our people. It has generally been thought that it was an inconvenience that foreign ministers should be sent abroad who could not speak the tongue of the nation to which they were sent, and could not understand it. My own reflections on that subject have told me that the countries are kept out of a good deal of difficulty by that imperfect relation. I have thought that it might have been well, and it certainly would have attracted attention, if I had been able to find somebody to go to the Court of England who could not speak or understand English. Of course, the same facility of a common tongue in bringing people into an understanding between themselves is likely to precipitate them into a misunderstanding among themselves. But with you, sir, who have known always when to be silent and when to speak, and how to be silent and how to speak, why, the more points, the more sentiments, the more faculties by which you could be in close communion with our people, the better for the good understanding and the peace of the two countries. I do not think that it is possible to exaggerate the multitude, the delicacy of the many questions that you have been called upon to handle, to treat and to dispose of.

During the Civil War, when many things were happening upon the sea that were not pleasant to our people, and many things were happening on the land that were not pleasant to yours, there was an opportunity for all sorts of difficulties, and every month was not without its danger; but sir, everything was handled with attention to the right. You had been educated as a lawyer. You had learned the wise maxim of the common law, *sic utere tuo ut alienum non laedas*—so to exercise your rights as not to trespass upon the rights of others. And while there were many who were desirous that umbrage and quarrel and criticism should break out into flames of war, you had no such desire, your ministers had no such desire, and the good sense of the two peoples, which they held in common, carried them through a season of rupture and of friction that no other nations could have survived without an outbreak. Now, this is the tact not merely of experience and of discipline, but it is the nicer moral sensibility to justice and to truth; it is the appreciation that quarrel and war are but the clouds and the mist and the hail, but peace is the sunshine and the fruitfulness of the earth.

I do not know, sir, how we should have looked upon the release from service that was granted by your sovereign, at your request, if it were to have severed you from our midst and taken you from this city and this country. I see that some of our cautious citizens, fearing such a possible catastrophe, have provided for lodging you in a Safe Deposit Company—a caution no doubt creditable to us and not, I hope, injurious to you.

But I am detaining you from what I have now the honor to present—the address of our citizens, signed by more than seven hundred of the excellent men of this city, of both nationalities. Everybody here has signed it, and those that are absent are fully as good as those that are here.

XVIII

SPEECH AT DINNER GIVEN TO DR. OLIVER WEN-  
DELL HOLMES BY THE MEDICAL PROFESSION  
OF THE CITY OF NEW YORK, APRIL 12, 1883

NOTE

Upon the retirement of Dr. Holmes as lecturer on anatomy at the Harvard Medical School, after a service of nearly forty years, the most eminent and representative members of the medical profession of New York tendered to him a complimentary public dinner at Delmonico's. It was an unusual occasion and the few speeches at the dinner were of an exceptionally high order.

Dr. Holmes, of course, read a poem. The Rt. Rev. Thomas March Clark, Bishop of Rhode Island, responded to the toast to the clergy, Mr. Evarts spoke for the bar, Dr. T. Gaillard Thomas spoke for the medical profession, Mr. George William Curtis for literature and Mr. Whitelaw Reid for the press.

Dr. Fordyce Barker presided at the dinner. He introduced Mr. Evarts in these witty and humorous remarks:—

"Many present undoubtedly had the pleasure of listening to an address delivered at the Commencement exercises of one of our medical colleges some years ago by a most distinguished member of the New York bar; an address filled with sound advice and solid wisdom, brilliant wit and humor which must have left its impress upon everyone who was present. In this address, those who were about to receive diplomas were told, with *fine emphasis*, that Benjamin Franklin had said that every man at forty was either a fool or a physician, but that it was their peculiar privilege to be both, one by nature and one by diploma.

"In this address, the two professions, medicine and law, were compared and contrasted. The functions of the two were quite different; that of the former being to take care of the carcass, that of the latter to look after the fleece. He illustrated the latter point by the story of the prominent lawyer who had arranged to go abroad for



his summer vacation, but found that he must give up his plan, as he had learned that a great will case was to be tried, and if he should be absent, there was the danger that the heirs would get all the property.

"I have, however, found that lawyers and doctors are usually friends. They have one characteristic in common: that is, both professions are disinterested; they both work for others instead of themselves. Then, they never prey on each other. The fleece of the doctors is rarely worth the looking after by the lawyers.

"Then, as to the carcass of the lawyers. As a consequence of the excessive tax of brain power in the arduous work of their profession, the ascetic lives which they always lead, the meagre diet upon which they are known to subsist, their rigid abstinence from those fluids which are supposed to quicken digestion and promote assimilation,—to carry out the mutton metaphor,—their carcass fails to secure that proper development of the fat with the lean necessary to make it of any market value.

"But, we always love to meet the lawyers—except in the court room, when we are to be cross examined by them,—and we are always greatly delighted to hear the trained and eloquent speakers of that profession.

"I have great pleasure in associating with the next toast the name of the Honorable William M. Evarts."

DR. NOYES: The Bar.

"Why may not that be the skull of a lawyer? Where be his quiddits now?"—*Hamlet*.

#### SPEECH

*Dr. Barker and Gentlemen of the Medical Profession:—*

It gave me the greatest delight to be thought by your profession to be worthy to represent my own in joining in the tribute to the genius and worth of Dr. Holmes, which all the professions equally delight in sharing, and in which we assume in this as in the main conduct of the affairs of the world, to represent the people who do not belong to either of the learned professions. I confess to a considerable satisfaction in the admirable impression which these collected members

of your noble profession have produced upon me, and, if you will allow me to say it, in feeling how much pleasanter it is to be asked to meet three hundred doctors than to ask one to meet me.

An English traveller in the early part of the century, a lawyer like myself, had found in an old German book on medicine from a very great and eminent physician something, you may imagine, not in a humorous form, for he spoke in the greatest seriousness, but something rather of oddity. This writer, attracting attention to the valuable instructions of his work and to the great power and services of his profession, laid down the sweeping proposition—that all the diseases, all the ills that flesh is heir to, all accidents requiring surgical aid—all had their origin, all were bestowed upon the human race in order that a skilful and learned profession might be educated by their means. I do not know but that after all, at bottom, there is a good deal of feeling on the part of the three learned professions that that is the true view of human affairs. Estate, body and mind! they make up, do they not?—they are all that is visible, all that is interesting, all that is important in human affairs. And, abandoning in our profession the Latin earlier than you of the clergy in your prayers, or you of the medical profession in your prescriptions, we all have the same word to cover our relations respectively to human affairs. The lawyer has the care of estates and of interests, the clergyman the cure of souls, and the physician the cure of the body; and as the sheep are for the shepherd, so those taken care of are for those who take care of them.

I have pointed out once before to an assembly of young physicians the striking advantage which at the start you gentlemen had; for though alas! everybody has not an estate, and everybody has not a mind, yet everybody has a body. And although we thus hunt the human race in different paths, as civilization opens them to us, we are all

sure to be in at the death, and although it is a cheerless moment, yet to us there are assuaging circumstances.

I believe, Dr. Barker—and perhaps I am warranted in believing by the not infrequent kind allusions which I hear made to the medical address that I once had the honor of delivering to five thousand people in the Academy of Music, and which you have just referred to—that if I had been a medical professor I might have taught the medical students how to talk—which you say they are somewhat deficient in. But I do not like altogether to have any maimed sentence or view of mine, which I laid out so elaborately then, made to express imperfectly the truth I sought to unfold of these healthful relations between the different professions and their dominancy over human affairs, for I drew one interesting discrimination, which you have omitted, in favor of that profession so well represented to-night by the Bishop, in contrasting our relations to mankind—that where members of his profession were sent out, as we all know, as sheep among wolves, we and you are sent out as wolves among sheep. But we have always known enough not to pursue with any of our hostilities the clerical profession, although they tempt us by that guise of sheep for we know that they are not sheep, and it is they who have a disguise and not we, who openly go forth like wolves among the human race.

Now this German doctor had in his odd fancy this degree of truth at least, that for the instruction of mankind and for the development of the great intelligence, the great philanthropy and the great service that the different professions yield to mankind, these opportunities and these occasions were rendered in all the scheme of human life. May we not vary, then, the language which the great player used for human affairs from an analogy to his profession and may we not wisely say:

All the world's a school,  
And all the men and women in it scholars?

Dr. Holmes has the advantage of being born and living near to Boston—a place which no one leaves early in life without feeling it a great advantage to have done so, and which no one first learned late in life without feeling that he is glad he has seen it before he dies. Having the advantage myself of having been born and bred there, I can only compare notes with Dr. Holmes upon the question which of us he thinks, on the whole, was the wiser—I in leaving it as soon as I had got all the good out of it that was to be had and looking for the wider sphere of New York for this exercise of my profession of a wolf among sheep. As for the fame that New York can ever bestow upon a resident and lover of Boston, as Dr. Holmes is, there is nothing in that. The only curiosity the Doctor had in this matter of fame was to see how a Boston fame would sound echoed in New York, and I think I may say that it sounds very well to him; for there is not a note or tone in the anthem of his praise in Boston, which is not reverberated throughout the whole capacity of this vast city, in greater voice and volume.

I have never known how the Boston people were able to put up so long with Dr. Holmes, who, while he furnished a great deal of reputation to Boston, took to himself also a principal share of the reputation of Boston. Sir Henry Maine says that a traveller repeating a visit to New Zealand, and inquiring for an old and a wise man, whom he had noticed on his previous visit, was told by the New Zealand chief, "Well, he gave us so much good advice that we were obliged to put him away." But our civilization curbs even the national ferocity of the Boston people, and while, by the methods of conveyance now in use, Dr. Holmes can slip away into so ample a heart as New York opens to him, he need not feel afraid that it will be necessary for the Boston people to put him away.

And now, gentlemen, is it not fit, as we are all professional men, as the rest of the world are shut out, and as what is said

here to-night will never go any farther—is it not fit for us—does not our character for truth require us to admit that we are really the savers and protectors of society? Why should we hide it even from ourselves? Let us nerve ourselves from these reflections to move in a more animated, more vigorous, more comprehensive pursuit of our several interests. Let us understand that the laborer is worthy of his hire, and that those who are not willing to be aided by professional skill in parting with their property—and with their lives—are unworthy of serious consideration.

## XIX

### SPEECH AT FAREWELL DINNER GIVEN TO MR. HENRY IRVING, AT DELMONICO'S, NEW YORK, APRIL 6, 1885

#### NOTE

Toward the close of the second professional tour of America by the famous English actor, Mr. (afterwards Sir) Henry Irving, it was planned to give him a farewell dinner in New York on the eve of his departure for home. We take from "The Life of Henry Irving" by Austin Brereton, the following reference to the occasion:

"When the idea of giving a public banquet to the actor before his departure from America was mooted, there was no difficulty in obtaining the support of eminent men. Over a hundred names were attached to the invitation, including those of Senator Evarts, Senator Bayard, Henry Ward Beecher, G. W. Curtis, Oliver Wendell Holmes, W. D. Howells, T. B. Aldrich, Goldwin Smith, Edwin Booth, Lawrence Barrett, John McCullough, Mark Twain, Horace Howard Furness, Chauncey Depew, J. N. Osgood and C. Dudley Warner. The form of the invitation to the banquet was very noteworthy:

NEW YORK, 14th March, 1885.

HENRY IRVING, Esq.

*Sir:* We, the undersigned, representing a large number of your friends, desire to testify the esteem in which you are held by the American people, for your high personal qualities, the admiration you have excited artistically as an actor, and the respect which you have won as an earnest reformer of the stage, by tendering you a public banquet at Delmonico's, on Monday, 6th April, if that date will suit your convenience.

Our citizens will be glad in this way to express their appreciation of the intellectual pleasure and instruction which they have derived, not only from your personal performances as the greatest of English actors, but from your admirable system of management

which has resulted in the most satisfactory dramatic representations, in every detail, that have been witnessed in this country.

While awaiting your reply to this invitation, we hope that your resolution to make your present engagement here a final farewell may be reconsidered, and that, from year to year, a portion of your theatrical season may be reserved for this country, where your welcome will always be hearty and sincere.

We remain, sir, yours sincerely.

The following is the text of Irving's acceptance of this invitation:

*Gentlemen:* The great honour which you propose to confer on me, I accept with pride and pleasure.

Such a distinction, offered by so remarkable a body of American citizens, far exceeds my deserts. This proof of good will must always be most precious, and my only regret is that I cannot, at some time, return to your stage.

Of the welcome you so graciously promise I feel assured, but I am compelled to forego it by my paramount duties at home.

As an Englishman, I thank you for your brotherhood, and, as an actor, I thank you on behalf of my profession.

I beg to remain, gentlemen,

Your very faithful servant,

HENRY IRVING.

"The banquet admirably illustrated the spontaneous spirit of the whole movement. Ex-President Arthur was to have presided, but he was kept away by illness, and his place was perfectly filled by Senator Evarts, a gentleman who in features was more an antique Roman than an American, and when the guest of the evening said, 'I am no orator, as Brutus is,' the allusion was exceptionally happy. Mr Evarts had a reputation for making very able, but very long speeches consisting of interminable sentences, yet his speech at this dinner was a model of brevity and epigram."

In the "Tribune's" account of the dinner, the reporter states: "When the coffee was served and the smoke of the cigars and cigarettes ascended in a cloud, Senator Wm. M. Evarts arose and rapped on the table for order. He was received with a loud burst of applause and thrice repeated cheers. He proceeded to introduce Mr. Irving in a speech listened to with deep attention."

## SPEECH

I thank you, gentlemen, for the great honor you have done me in asking that I should take so prominent a part in this gathered expression of the feelings of our people toward our distinguished guest. I congratulate you that when so many of our countrymen have not even been called to enter this hall you—these few, but all the room will hold—have been chosen; and I feel by a natural selection, the appropriateness of which each of you will feel in yourselves, you are fit exponents of the people of this city, and of the people of other cities who have sent their messengers here, and of the general public, the whole public of this country, that are interested in this occasion.

As for myself, my share in the movements of this evening is to be very humble and very brief. I cannot see that I am a performer at all. Every moment that I shall encroach upon your time will but delay the pleasure that has brought you here to listen to Mr. Irving and will but intercept the tributes of homage that these speakers are to bring from their own communities to lay in your name and their names at his feet. I am not, as I have said, a performer. I am not a manager. I am not even a prompter, for all these speakers have learned their parts by heart, and I do not know a word of them. I am only a scene shifter to introduce one after another these brilliant parts of the grand drama.

Before Mr. Irving came to this country many gentlemen—many no doubt now at this table and among them myself—had formed a personal acquaintance with him in excellent forms of society and in the cordial courtesy with which he treated all Americans. We had become conversant with his methods and his reputation on the stage at home, and we brought home with us those prepossessions which he must have felt were due to him, and they prepared in the hearts and minds of our countrymen for his reception that which



was given him. When he first came bearing with him the good opinion of his countrymen that valued him at home, he soon engaged the attention of all our people and secured from them approval of his art and their applause for his triumphs. And when again he came among us he came as a friend to a friend among friends; and while he has been here in this little world of our country, all the world has been a stage and every man and woman in it a playgoer to see him play. And now, after all that we have learned of him and all he might learn of us and knows about us, what wonder that before he leaves this great stage and this great audience of this whole great country, we should desire to call him once more before the curtain and pay him our plaudits and receive his kind farewell.

It was not for earlier days, sir, in your art or in our pleasures, that it should have come to an English actor to find a provincial tour in a nation three thousand miles away, and in an audience drawn from fifty millions of people; but as it is in this widespread and universal transfusion of thoughts, of ideas, of feelings and affections, nothing is provincial any more and nothing central, but with English people everywhere, surrounding the world with their speech, their laws, their literature, their admiration and affections, wherever a man speaks English to English hearers, he is and speaks at home.

And now, Mr. Irving, what would have been no easy task for me to talk to you, the great master in your art, of that art, of its relations to society, to literature, to instruction and to civilization, you have made now to me altogether impossible; for, in your own ample exposition of all these topics before the learned heads of our most ancient university and the scarcely less learned scholars of that elective discipline, nothing remains to be said.

What is there, then, in a word, but for me to say that the great actor, who gives voice and speech to the great dramatist, is himself in turn teacher and preacher, orator and law-

giver, poet and philosopher, statesman and prophet. Upon these great works of genius, as on a keyboard, you draw forth all the fair music that all creatures make and end in perfect diapason.

And now, gentlemen and Mr. Irving, our guest, what is there left but to wish you a prosperous voyage and a safe arrival?—that every sunny day the laughter of the waves may cheer you across the loud resounding sea and every night the stars may shed their benign influence upon you, their kinsman—one of our sublunary “stars,” alas! so much less numerous than those in the upper firmament; and those lusty winds, the Western winds, that sweep down from the Rocky Mountains, shall waft, shall blow, your vessel across the ocean, but only because you wish to reach the haven where you would be.

## XX

### SPEECH AT COMPLIMENTARY DINNER GIVEN AT THE UNION LEAGUE CLUB TO JOHN JAY ON THE OCCASION OF HIS SEVENTIETH BIRTH- DAY, JUNE 24, 1887

#### NOTE

On the approach of Mr. John Jay's seventieth birthday, many of his friends, more than one hundred in number, addressed to him an invitation to meet them at a dinner at the Union League Club. There was assembled a large and brilliant company of representative men, over which Mr. Joseph H. Choate presided with his usual great charm and grace. In introducing Mr. Evarts as one of the speakers, Mr. Choate said:

Gentlemen: Mr. Evarts, although not quite as old as Mr. Jay, claims to have passed his seventieth birthday, albeit the event has failed to attract the sensitive public eye and ear. He and Mr. Jay studied law together, and ever since they have travelled side by side in their honored and prosperous lives. They have divided public honors and private applause; and always they have been true to one another. I call upon Mr. Evarts to address you.

#### SPEECH

When Mr. Choate did me the honor to ask me to join in the invitation to Mr. Jay, and I read the well-expressed, the kind and truthful phrases, I told him that I could not sign it because, in one point, it was not true. He had asked our friend to meet us at a dinner on his seventieth birthday, and thus had left out of the count the day that he was born. I, adhering to the rectitude of these minor moralities, have insisted that I had passed my seventieth birthday, though I was but sixty-nine years old.

Mr. Jay and I were students together, under an excellent

master. When I came here from the law school at Cambridge, and entered Mr. Lord's office, I found there, among his students, either just ready to be admitted to the bar or just admitted and about to leave the office, this gentleman, our friend. He was already married; and I thought how fortunate I had been in selecting for a forum of my professional career, a place in which one of the greatest rewards of life might be reaped, even before admission to the bar. From this you might suppose that we were near of an age; but really we seem to be of two different generations, for his grandchildren and my children were schoolmates at St. Paul's and in college. So much for an early start in married life!

I must recognize, as Mr. Choate has, the earlier and not less grateful interests which I found in Mr. Jay's reception of me, a stranger, coming here, not of the home or of the settled and prominent opinions then existing here, but a New Englander, the first of my lineage that had ever lived out of the borders of New England. I found this my future friend, settled already in his domestic affections, and surrounded by all the attractions with which culture and wealth and good fame in family could surround him; and from that moment until now, I think Mr. Jay will warrant me in saying there has been no moment either at home or abroad, either in politics or in the movements of society, that we have not been boys together from that time to this.

One may readily be permitted to gain some distinction for himself to-night, by the associations that he can justify between himself and our honored guest. The great Chief Justice, Mr. Jay's grandfather, and my grandfather were together in the government under General Washington, one in the Senate and one presiding over the justice of the country; and it is a just tie of agreeable association between us that thus now we stand together, not broken in years, and, I trust, not on my part (as certainly not on his) in repute; with the

same purpose in our lives of obedience to the Constitution and the laws and the integrity of the nation and the amplification of its authority and its power. We have not seen in our generation any permanent harm done to these great institutions. We still possess an unmutilated territory and an uncorrupted Constitution, which the ancestry of the present generation joined their labors together to knit in such firm texture that no vicissitudes of human affairs could shake them asunder. But I had even a closer association; for, though in no part was there any affinity or consanguinity, yet my elder brother had received from my parents, as a name standing for public-spirited and pious traits, for unity of personal purity and of public power and strength, no name of kindred upon either side, but the name of John Jay. And thus, as Mr. Jay perhaps would remember, in his first introduction and his kind acceptance of my companionship, he referred to that as within his and his family's remembrance, that my father and mother had given the name of John Jay to their elder son.

Now, when two young men have grown, not old, but older together, year by year, in the same sphere, in the same paths of public service and of public relations, and then in all the activities and in all the vicissitudes that attend so many who launch upon the stormy sea of this great city, this great State, this great nation, it is impossible that we can feel otherwise than that, in the tapestry of our lives, the conciliated threads and colors are united, so that we seem framed together into what is the working of the lives of the time in which we live. But I have known Mr. Jay as a young lawyer, as an efficient, as a prominent, as a faithful actor in all that moved the minds, addressed the consciences, brought out the character of our contemporaries as we went on together. I do not know, Mr. Jay, but I am quite sure in saying that there is no one present in this company that can beat, for so long a period, the parallel lines of our

lives. Indeed I might say that outside of this company, and in this great community of the city and of the State, as we date thus from our first step out of the province of education into the province of active life, you can probably name no one that can go further back and yet has held out as long side by side with you as myself.

I had the good fortune to meet Mr. Jay abroad under circumstances of great interest to the contests that were going on as the sequel of the close of our war. I had not the good pleasure to find him, while I was connected with the government at Washington, still in the diplomatic service, but I knew all the while that he was fulfilling his missions abroad, and all the while afterwards, as I had occasion to consult the records of his correspondence, that in everything there, both of a public nature and in the more intimate and personal integrity, to keep untarnished our honor from the attacks made upon it there, Mr. Jay was, in the Court of Austria, on the high scene of diplomatic regulation and control of affairs there, as well as in the conduct of private relations, the same fearless, the same upright, and the same successful man in the conduct of affairs.

Now, gentlemen, we are together with no occasion on the part of any of us but to speak within just bounds, and to shade, if there be need to shade, any of the features or the marks of the career of our guest. And if there be a continuous uniformity in our applause, it is simply that if our applause should cease or our applause should fail, it would not be his fault, but ours that we did not continue to appreciate him. And now, as we are thus enjoying this hospitality, which we extend to our guest, and thus deriving a lustre from his repute and our appreciation of it, am I not right in saying that there is no greater wealth in human life than a well-maintained good fame, from the beginning to the end, on a large and open theatre of observation, when the virtues have grown and strengthened, not under shelter, but

by triumph over temptation? What is stronger than that sound proposition of Plautus: *Ego, si bonam famam mihi servasso, sat ero dives!* And that is the wealth of a life crowned in honor and in munificence to human needs. If riches in the lesser sense has monopolized too much the name of wealth, yet in wealth in this largest significance—that is the wealth in which such fame as that of Mr. Jay may well be a cause of congratulation to himself, then he is indeed rich enough.

## XXI

### SPEECH IN THE UNITED STATES SENATE ON MOVING RESOLUTION RELATING TO THE GIFT TO THE UNITED STATES BY CITIZENS OF ITALIAN BIRTH OF A BUST OF GARI- BALDI, AUGUST 23, 1888

#### NOTE

During Mr. Evarts's term in the Senate, the citizens of Italian birth resident in Washington offered to present to the Government a marble bust of Garibaldi. The offer coming before the Joint Library Committee, of which Mr. Evarts was chairman, was favorably considered and upon completion of the work the bust and a suitable pedestal were accepted by the committee on behalf of the Government, and placed in the Capitol.

In August, 1888, Mr. Evarts offered in the Senate the following resolution:

WHEREAS, The Italians, residents of the city of Washington and citizens of the United States, have, through the president of the Society for a Monument to Garibaldi, presented to the United States a life size marble bust of that great patriot and distinguished representative citizen of Italy, Guiseppe Garibaldi; and

WHEREAS, The Joint Committee on the Library have, under authority of the statute (Revised Statutes section 1831), accepted the same for and in behalf of the United States; therefore,

*Resolved*, That the Senate of the United States expresses its sense of the patriotism and liberality which prompted this noble gift from these adopted citizens of Italian birth, and extends to them, the countrymen of the great champion of Italian liberty, the assurance of the admiration of the people of this land for his noble life and distinguished deeds.

On calling up the resolution for adoption by the Senate, Mr. Evarts delivered the following speech, on the life and career of Garibaldi.



It is of interest to note some of the tributes that came to him as the contemporary and spontaneous effect of this speech. How it moved his immediate audience, finds expression in the parenthetical note of "(Applause.)" in the Congressional Record, inserted at the close of the speech as reported.

Senator Hoar wrote, in the enthusiasm of the moment, this brief note:

SENATE CHAMBER, Aug. 23/88.

*My dear Evarts:* No Italian Sculptor ever carved on costliest stone or shell a more exquisite portraiture than yours of Garibaldi. Affectionately yours,

GEO. F. HOAR.

And through Baron Fava, the Italian minister, came this message of appreciation from the Italian Government:

WASHINGTON, September 19th, 1888.

*Sir:* I receive just now a cablegram of His Excellency, the Prime Minister of Italy, conveying his sense of gratitude to you, on behalf of the Italian Government, for the most eloquent speech and the noble expressions of sympathy towards Italy, by which you accompanied your resolution of August 23rd, presenting for acceptance the bust of Guiseppe Garibaldi, the gift of the Italians, residents of the City of Washington.

Your words have found an echo in the friendly sentiments of the Italian Government and in the grateful heart of all the countrymen of Garibaldi towards the great American nation.

In communicating to you this message, it gives me pleasure to acknowledge anew how much I am indebted to you for the prominent part you took in bestowing such a conspicuous honor upon one of Italy's greatest sons, and likewise increasing the strong current of sympathy already subsisting between the two Countries.

Please accept, Honorable Senator, the assurance of my highest consideration.

Your most obedient servant,

FAVA.

## SPEECH

Mr. President, the Joint Committee on the Library has authority by law to accept in behalf of Congress any gift that may be made of works of art and to take order for their disposition and display in the Capitol. In pursuance of that authority the committee accepted in behalf of Congress this gift of the Italian patriotic citizens who have presented to the government this noble work of art and this fitting monument to the great character and the great fame of Garibaldi.

The death of Garibaldi occurred in 1882, when he was, I think, in his seventy-fifth year. Very soon after that, a body of Italian citizens of the United States, residents here, formed a society for the purpose of making some permanent commemoration of their great admiration of Garibaldi and of their great respect and affection for the United States, their adopted home.

Under the lead of an eminent physician and a public-spirited citizen of this city, Dr. Verdi, this organization proceeded to procure the execution of a work of art which should be an illustration, as well, of the genius in the art of the sculptor that their country is so prolific in. An eminent artist, Guiseppe Martegani, has produced as fine a work as could be offered from any sculptor, and of as beautiful a specimen of the famous marble of Italy as could be selected from all its quarries.

The committee have taken order, on the receipt of this completed bust, that it should be placed on a suitable pedestal, which accompanied the gift, in the principal corridor of the Senate galleries, over the main entrance to the Senate-house on the eastern front. There, undoubtedly, many of the senators have examined this beautiful work, and those who have had an opportunity to compare it with the descriptions of this famous general and patriot, will have perceived

that it is an accurate representation of his features and a noble expression of his character.

Garibaldi was born in very humble circumstances. A native of Nice, the son of a sailor, and the grandson of a sailor, he was brought up to the sea in the ordinary capacity of a sailor before the mast. Nor had he any great associations, either in respect of education or of kinship; and from the beginning, until he opened into an illustrious path of the glory of his country and of himself, his lot was cast in the most ordinary condition of life.

But this great good fortune happened to him. In early life he was thrown into companionship with some of those burning spirits among the students of Italy, whose names afterwards became famous as patriots, and his native genius drank in from these cultivated minds all the inspiration that had moved their hearts and inflamed their hopes. It is a notable thing of Garibaldi that, without education and without other than the casual associations that I have mentioned, there grew up in him a spirit of wide investigation, a thorough appreciation of and a deep reverence for the great glory of Rome as transmitted from ancient times. His spirit, too, was lighted, as by a torch, with an inextinguishable hate of tyranny in every form. But with this deep reverence for ancient Rome he also nursed and cherished a dear love for Italy as it lay before him, dismembered and bound by tyranny.

As early as 1834, he had become so enlisted and so ardent and courageous that rather a fantastic desire, than a formal hope for the liberty of Italy, first brought him to public notice. He by good fortune escaped from Genoa in disguise, to avoid arrest, and a few days afterwards he saw for the first time his name in a newspaper, and that name was coupled with a sentence of death.

Garibaldi pursued this ordinary tenor of life, his wandering fortunes, always honest and laborious, planning for nothing

but an opportunity to arrive when he could play his part in securing the unity of Italy. We find him, after 1840, for some years fighting in South America in behalf of Montevideo against the oppressions of a neighboring nation. One would not expect to find in this experience much of a school (for he was, through these years, afloat or on land as might be, in the lead of any force that would follow him) for the great scenes that were to await him in Europe. Nevertheless the same great powers of mind, of authority, of predominant impetuosity and courage, his readiness to try conclusions against tyranny and oppression at whatever odds, found here a preparation of spirit and of discipline better than any schools of military science or tactics could give him.

He was back in Italy at the period in 1848-49 when all Europe was pervaded with a spirit of revolution, and he bore a part, with the great triumvirs of whom Mazzini was the chief, in that short-lived effort of founding a Roman republic.

That failing, Garibaldi became for two years a resident of New York or its vicinity, where he became well known to our citizens, and his marked character, although not then distinguished by great achievements, encouraged in the knowledge and expectations of those about him the hope that he would have great things to do for Italy.

Although Garibaldi was turning everything in his mind and in his action towards the great consummations which he aimed at, it was not until 1859 that there came the first opportunity of opening that brilliant career of arms that dazzled the world.

As general-in-chief of the volunteers he took part in the war between France and Italy, allied, and the Austrian Empire. That war ended with the peace of Villa Franca, and, practically, with the annexation of Lombardy to Piedmont under Victor Emanuel. This constituted the first stage of Italian unity and independence.

These preparations, these movements, and first steps to-

wards unity and strength among the divided provinces or kingdoms of Italy had, in 1860, reached a point where Garibaldi found that he could strike a decisive blow, and he descended upon the Island of Sicily with only a thousand soldiers. The kingdom of Naples, under king Bomba, as he is generally called in history, had thirty thousand troops on the island, and it was well fortified throughout.

By ingenious strategy, Garibaldi, after effecting a landing, threw himself, with his thousand men, into Palermo, and there, raising the population to follow his flag, he encountered the 20,000 troops of the king in that city, and fought them through every street, and hand to hand, till Palermo was under the control of Garibaldi and the 20,000 royal troops expelled from it. In less than three months he overran the whole island, meeting at every point, and beating, such rallies as the king's forces could make, until Garibaldi was the master of all of Sicily, and the royal troops were driven from it.

Victor Emanuel at this point, under some complication of diplomacy, sent an order to Garibaldi to be satisfied with this acquisition, and not attempt the Kingdom of Naples. Garibaldi sent back to the king a message, "You know how much I love you, but your order comes too late; Italy must be free." Crossing the Straits of Messina he entered Naples alone, the population carrying him in triumph, the King and his troops flying in panic from the city. Here for the first time a name was given to Garibaldi by his grateful fellow citizens, that has never ceased to be a part of his fame. "Liberator"—"Liberator of Italy"—hailed him as he entered the city of Naples.

But, Mr. President, the king did not surrender, and with 50,000 troops made a stand at a point of resistance of his own choice in the open plain, and defied the approach of Garibaldi with his troops of only 20,000 men, at Volturmo. With these new levies, new soldiers, but lovers of freedom and of Italy, through a stubborn fight lasting a whole day, before sunset

Garibaldi and his 20,000 followers routed the 50,000 troops of the king. King Bomba retired from his kingdom and never returned. In a few days after this final triumph Garibaldi met the king, Victor Emanuel, who would have stayed his hand, and took off his cap to him, with this simple salutation: "The Kingdom of Naples is yours."

Mr. President, we can all feel, I think, that there never was, in a career of arms, or in a triumph of a great cause, a career or triumph that more completely turned on one man. It may be conceded that without Garibaldi these things would not have happened, and with Garibaldi and all who aided him these were great things to accomplish, either by himself or with his followers. Garibaldi refused every honor and every emolument, retired to Caprera, his little island home, off the coast of Sardinia, but three miles wide and five miles long. This place that he greatly loved he has made illustrious. Never for one moment, from the first step he made toward public action, public fame, public achievements, did he desire or accept any honors or emoluments for his great deeds for Italy.

Here for two years he meditated how he could compass the conquest of the Roman States, for without that acquisition Italy was not and could not be united. The time, however, had not arrived, as was supposed, when the Kingdom of Italy so far as it had been consolidated, could attempt a solution of this great problem of the Roman States. While in his little home of Caprera the frigates of Victor Emanuel watched its shores to prevent his reaching the mainland, But Garibaldi escaped and undertook, then obviously prematurely, an attack upon Rome. At Aspromonte he was met by King Victor Emanuel's army, an army that he could not contend with either in strength or in the affections of his heart; but to him it was a bitter disappointment that he should thus be turned away from his purpose and checked in his own advancing glory for Italy by the king and the kingdom which he had so much exalted.

In 1863 Garibaldi by invitation visited England. His fame was great. The enthusiasm of the people of England for him was unbounded. It lit such a flame that the government of that sedate kingdom found itself in an awkward predicament towards this guest; but at length it was politely intimated to Garibaldi that he should not prolong his stay. It was my fortune, Mr. President, to be in England at that time, and my delight there to make the personal acquaintance of Garibaldi.

I assure you that, with this remarkable career behind him, yet to be followed to more brilliant results, with this unbounded enthusiasm that agitated England in all quarters, in all circles of the great and of the common mass, Garibaldi's appearance, dress, attitude, conversation was as simple as you would conceive it to have been and as it was in which he appeared on the deck of one of his own South American corsairs or among the first thousand men which he threw into Palermo. In 1866 the war broke out between Prussia and Italy against Austria, and Garibaldi was put in command of 50,000 troops to invade Austria and wrest from that great power the Tyrol provinces, which properly belonged, as Garibaldi and the Italians thought, to Italy. He carried everything before him, penetrating rapidly into the very heart of the country that he was to occupy and subdue. But, alas, again his own government stayed his hands; but then upon the very necessary and proper situation that by the loss of the battle of Sadowa and the armistice that followed, the war with Austria was at an end. But this was a bitter disappointment to Garibaldi, for acquisition, restoration, of what belonged to Italy was the darling passion of his heroism and of his statesmanship; and thus, when these provinces were in his grasp, to retire by the martial situations, that had been produced elsewhere, was a great disappointment to him.

In 1867 Garibaldi, still acting on his own movements and on his own resources of volunteer followers, undertook an

attack upon Rome, and was carried almost to the gates of Rome. But at Mentana he was met by the French army, which was then protecting the Roman states and Rome in the interest of the engagements which France had made, and it was impossible for him to proceed further. His time was not long. In 1870 war came up between France and Prussia, and all the resources of the French were needed to cope with the great adversary that was waging that terrible war.

Then Italy by its king and by its troops entered Rome and Italy was united. But Garibaldi was not ready to relinquish his career of arms for liberty against strong power, though he had thus triumphed for his own country and for himself. He offered his services to the French republic to carry on the war against Prussia, and there he won battle after battle with great prowess and great distinction. He had the singular honor, it is said, of taking the only battle trophy taken by the French from the Prussians throughout that war. It was a terrible battle at Dijon for that flag, and it was lost and won, back and forth, over heaps of corpses, but Garibaldi carried it off and kept it for France. The phrase went in France, as the war went against them, that if there had been more Garibaldis there would have been more victories for France.

He was chosen by the French in three departments a member of the Assembly of the republic, but finding the scene uncongenial, he resigned and returned to Italy. At one time, after his first triumphs for Italy, he was chosen a member of the first Italian Parliament, before the unity of Italy had been accomplished. He went there, it is said, only for the purpose of reproaching Cavour that he had surrendered Nice to France, and immediately resigned and returned to Caprera. Hard fate for Garibaldi, born in Nice, that in the accomplished unity of Italy his own birthplace should be alienated to France!

From 1870 to 1882, when his death occurred, his health,



and his strength much broken, he passed his time in honorable occupations and efforts, but without any public rewards or desire for rewards. In 1882 he was chosen to the Parliament of Italy, but his health wholly gave way and he retired to Caprera to die.

Mr. President, when all modern nations have looked back to ancient Rome, its long history, its crowd of geniuses, of heroes, of patriots, it would seem not likely, in the renovation of Italy, there should be found a name that should be added to that list and lose thereby no lustre. Heroes, statesmen, lawyers, wise men, philosophers, and poets make out the long roll of ancient Roman glory. But, after all, though these, for history and for scholars, may make up the illustrious groups, for universal human nature, there must be found, if the names are to live in the hearts and be ever on the lips of the human race, some "touch of nature that makes the whole world kin." The name of Lucretia, whose outraged virtue could bear no lighter expiation than her own life, taken by her own hand, and whose blood, thus spilt, could brook no lesser vengeance than that the whole name and lineage and race and blood and breed of tyrant kings should be forever driven from the polity of Rome and a republic founded; of Cornelia, whose bright example of the fame and frame of Roman matronhood throws into insignificance the pomps and attires and decorations of women; whose jewels of the Gracchi stand out to all the world as the glory of woman, as the mother of sons; of Horatius, who set his own strength and his own life against the tide of war at the bridge to hold it back long enough to cover the safety of the city; of Regulus, the monument of Roman faith, the hostage sent by Carthage to give advice to Rome concerning peace, and his promise to return if peace did not follow, who advised the Senate, for the glory and the interest of Rome, to make no peace with Carthage, and returned to Carthage to torture and to death—these names, and such as these, are names to be remembered by the world. These are

the names of power, of fame; the names to conjure with; and Garibaldi's name, Garibaldi's inextinguishable name, shall be a name to conjure with, for liberty and love of country, so long and wherever those ever great sentiments shall warm the human breast.

## XXII

### SPEECH AT THE SECOND ANNUAL DINNER OF THE REPUBLICAN CLUB OF NEW YORK IN COMMEMORATION OF LINCOLN'S BIRTHDAY—FEBRUARY 11, 1888

#### NOTE

The Republican Club of the City of New York, from its inception, inaugurated the custom of an annual dinner in celebration of the birthday of Lincoln. In 1888, as the date fell on a Sunday, the dinner was held on February 11. Judge Edward T. Bartlett, president of the club, in introducing Mr. Evarts to speak to the memory of Abraham Lincoln on this occasion, gracefully alluded to the appropriateness in calling upon the man who, in the Republican convention of 1860, had moved to make unanimous the nomination of Abraham Lincoln for the Presidency.

#### SPEECH

*Mr. President, and Gentlemen of the Republican Club:*

I am quite sure that you will allow me to count myself with the club, and as one of its members, and not as a stranger by invitation entitled to the special courtesies we pay to our invited guests. We are all at home here in New York, we honest and earnest Republicans of this club, and we rejoice to have the opportunities and the means of spreading an inviting feast to eminent public men of our party to join in the celebration of that party in its homage to the name and the fame of Abraham Lincoln. Your overflowing tables and your animated faces and exuberant spirits teach me, as well as our visitors, to look upon you as the examples and the leaders, engaged in a renovation of the Republican party, and not in any lamentation at any of its disasters.

How great a thing it is that in our generation a political party should have furnished to the admiration of the world so great a character, so great a conduct, so great a fame, so great an influence in this wide world of ours, as Abraham Lincoln. Accustomed to look upon the overspreading fame and influence of Washington as incapable of appropriation, in our later politics, to the just pretensions and pride of any one party, how great a thing it is for our party,—an actual living, leading party of our day,—that we have produced in the secular order of time a name to match that of Washington, and to give a new name to conjure with for American liberty and American independence. The great state of the old thirteen had claimed, perhaps, as the chiefest glory of its own greatness, that it was the birthplace of Washington; that its great son, the Father of his Country, slept on the banks of their own river, the Potomac. Now one of the new states, since added to the old thirteen, the great State of Illinois, has been lifted up out of the whole body of the thirty-eight states and put on the same plane and height with old Virginia, as the home and scene of the growth and triumph of Abraham Lincoln; and Illinois, in the long ages, shall stand out as the state identified with him, as Virginia is with George Washington. This glory of these two great names, thus now diffused over the whole nation and shared between the old and the new states, is to become henceforth, let us hope, a new security against discords between North and South, East and West, for all alike shall worship at these shrines of liberty and justice.

I cannot, Mr. President, speak as in narrative, nor even as in illustration, of the wonderful career of this most remarkable American. I can only ask your attention to the very brief span of years which covers his first introduction to the general knowledge of his countrymen, and the great stages, so few and so vast in their upward rise, to the last solemn culmination of his life in our sorrow at his death. Mr.

Lincoln, in 1856, was spoken of in the Republican party as a candidate for the Vice-Presidency, and received, I think, something over one hundred votes for that place; but I do not think it is saying too much, as to the country at large, to say that, except among his neighbors in his own state and in the neighboring states, this was the first mention of that name on the wide theatre of public fame of the United States. Two years afterward he was made a candidate in the purposes of the Republicans of Illinois, as their leader and champion in the campaign then opening, to send him to the Senate of the United States to displace the power and favor held by Mr. Douglas with the people of Illinois. Out of that great contest, in which this somewhat new champion of Republican principles, and of the great principles of liberty and of duty, was matched against the Democratic purposes represented by Mr. Douglas, came the name of Abraham Lincoln, to be known almost as fully, and as clearly, and as warmly throughout the land, as was the young stripling David throughout Judæa, after the smooth stone from his sling had smitten the giant Goliath. And from that step forward, you will find, in sacred or profane history, no more wonderful and no more rapid advance in human affairs, than this of Abraham Lincoln's, since the elevation of the young shepherd to be King of Judæa, the king that this religious people honor and admire as the great king of ancient times.

Now, wonderful, is it not, that from that first step taken in 1858, but two years afterward he became the leader and the candidate, not of a party in the ordinary contests and competitions of our politics, but the leader of an aroused, an indignant, and resentful nation against the evil shames into which we had been plunged by the Democratic party; and thus he was made the leader, not of a party, but of a nation, that was rising in its power to shake off the manacles and fetters that had bound its limbs. Then, from the

opening of his authority of rule under the Constitution, see how everything that he had to do, and everything that he did, was great and noble, and wonderful and new.

In the first month, following his inauguration, what more wonderful bugle-note was ever blown by human breath than that which called up the people of the United States, who loved their country, and were loyal to its institutions, to come out in arms to suppress a rebellion, that expected to be triumphant by our negligence and indifference! Upon this same great summons, behold how swiftly, covering this great coast of ours from the capes of Delaware to New Orleans and Galveston, and on the Pacific Coast the whole sea was crowded with ships to enforce a blockade that the world had never dreamed of, as possible of enforcement. And so on, step by step, the great army of citizen soldiers grew, and the zeal and the fervor and the patriotic sacrifices of the nation marshaled the manhood of the country, and marshaled the wealth of the country, all to be poured into the lap of the great Government and placed at its service to preserve for all this people, the American nation, with its Constitution unpolluted and its territory unmutilated. Great occurrences in the history of the world! The example is set, and hereafter the people may rest secure, without an army, and without a navy, when it is known that a people like this, when their honor or their interests are struck at by intestine or by foreign foes, is able to array on battlefields, and to display on the wide ocean, enough of warlike power to meet the warfare of the world.

But see how all this material pride and power was but the attendant and the servant, as it has been from the beginning, but the minister of the great design of Providence, of whom Abraham Lincoln was the trusted instrument. Then we come to the greatest act in the history of our world of personal influence in its affairs, the emancipation, by the pen of a ruler, of the millions of the enslaved fellow-countrymen

of ours. And to crown all, to make that fact permanent and constitutional, that had been justified and was needed as a step in the war, he lived to see a proclaimed peace, not over a subjugated people, but over a suppressed rebellion.

By a happy inspiration, given to few orators, Abraham Lincoln did what no orator since Pericles's time has been able to do—that is, to add one exhilarating and ennobling thought to the ever-memorable oration which Pericles delivered over the dead of Greece that died for Greece. Every scholar that has read that perfect piece of patriotic feeling and eloquent truth of the Greek orator, must admit that Abraham Lincoln's single phrase, at Gettysburg, "The world will little note, nor long remember what we say here, but it can never forget what they did here," will live with the splendid rhetoric of Pericles.

Now, what was there, in the future of his life, of great historic fame, of great and arduous yet completed and triumphant duty, left for Abraham Lincoln to live for and to do? There might be much else for this country that he should have survived for, but who, that looks at a rounded and complete character and fame, but must recognize, that there was nothing left for him in the stages of human greatness and of grades of perpetual homage from mankind, but that this great chosen and triumphant leader should be made a martyr. Was there anything left in the rôle of human glory to crown that of Abraham Lincoln, after he had received the surrender of the rebellion, and the acclaim of the nation as its savior, but that he should receive the consecrating crown of a martyr? And this consecration came about, this blow of malice and of treason struck down Abraham Lincoln, on the day of all the year, the day which we celebrate as Good Friday, the day the Savior died. Can we then fail to associate—who in Christendom, in the hearts of the religious and Christian people of the world but must associate—this death of Lincoln, the martyr for liberty and

the hopes of civil institutions for man, with this dreadful day of the crucifixion? That was a sad night for this country to be sure, when, in a moment, in the twinkling of an eye, he lost all consciousness to things of earth. He slumbered through that long, sad night,

“But when the sun in all his state,  
Illumed the Eastern skies,  
He passed through Glory's morning gate,  
And walked in Paradise.”

But it is not wholly today that we are to celebrate the *memory* of Lincoln. This marvelous history of an American boy, ended at the age of fifty-six, tells a story that belongs to the whole world. For us, gathered here, his example, his lessons, are to be accepted, for practical duties and practical objects, by the great political party, that shares with him the glories of his achievements, as he did of ours. It is in that name and by that sign that the Republican party expects now to take up and carry forward the great and continual, and let us hope perpetual, growth and elevation, and exaltation of the American people, purged of all that human nature below the skies may hope to miss, as it goes on step by step; but not, let me remind you, Republicans of New York, by belittling or explaining away the greatness of Lincoln and the greatness of the Republican party. Who would think that, under the exigencies of political agitations and political aspirations, we should come to find, in great numbers of our countrymen, a disposition to belittle and defame the greatness of those achievements and the wonderful credit that attends them all? Or, that the nation in the next following generation should think that it was irksome and tedious to renew and perpetuate those feelings, which arouse and animate us in the discharge of our duty?

Let us then be true to ourselves. By our next election



we are to launch our Government, with a new President for the first term, upon our second hundred years. We are bound to trust it only with men and with principles, and with courage, and with patriotism, that can be followed in the coming century, and long after, in the path that is illuminated by the public virtues of Washington and of Lincoln. Does not every Republican, that deserves the name, kindle with new feelings and with new purposes whenever the name and the birthday of Lincoln is mentioned? Have we anything to explain or to explain away? Do we want to put any new glosses and any new interpretations on the triumphant period of the Republican party and the culminating fame of Abraham Lincoln? Do we wish to send it out to European nations that the sober second-thought of the American people is a little disposed to call that a period of *enthusiasm*, which all Republicans know was, from the beginning to the end, and from the common soldier and the common voter up to Abraham Lincoln, and the great generals and the great statesmen about him, an honest, and a noble, and an unflinching, and an inflexible purpose, that this country of ours should be independent and free, able to take care of our industries, our prosperity, our character, and our conduct in the face of the world? Where are those idle and frivolous trumpeters of the subsequent fame of another party? Some unwise, but apparently well-wishing friend of the President,\* has thought it a good thing to bring the two names of the President of the day and the great President of our time, Abraham Lincoln, together, for comparison. Who raised this comparison? Did any Democrat ever think it worth his while to put those two names together? Did any Republican ever wish to do it? Who under Heavens dared to do that injury to the living President, thus to rekindle the enthusiasm for the great dead whose birthday we celebrate?

\* President Cleveland.

Now, the solemn character of Lincoln, shown by his pious phrases and his sober reverence, brings us to this, as the wisdom of the sacred Scripture: "A man's heart deviseth his way, but the Lord directeth his steps." Abraham Lincoln, in his honest heart, devised his way that he would serve his country—that he would serve humanity, that he would serve it in peril, serve it in prosperity, serve it for the country, serve it for the world; but the Lord directed those steps that he could not foresee, could not imagine; the Lord directed his steps, and there was no crown for him but that which should lift him into the higher sphere of nearness to the God whom he revered and worshiped. And, now, the undiscovered country which the steps of Abraham Lincoln now traverse, and toward which all our steps tend, is crowded with heroes and martyrs, servants of their time, prophets and great captains in the service of truth; but we must all reverently feel that among those majestic shades there is found, and not the least among them, the august form and glory of Abraham Lincoln.



## **APPENDIX**



## APPENDIX

### A BRIEF CHRONOLOGICAL SUMMARY OF THE CAREER OF WILLIAM MAXWELL EVARTS

William Maxwell Evarts, the second son and youngest child of Jeremiah and Mehetabel (Sherman) Evarts, was born in Boston (22 Pinckney Street) February 6, 1818.\* 1818

His early education was had in the Public Schools of Boston and he prepared for college at the famous Boston Latin School. 1823-1833

In 1833, he entered the freshman class of Yale College, graduating, with honors, in the "Famous class" of 1837. Samuel J. Tilden was a member of the class during freshman year. Morrison R. Waite, Chief Justice of the United States Supreme Court, and Edwards Pierrepont, Minister to England, graduated in this class, and when Mr. Evarts was appointed Secretary of State, in President Hayes's cabinet, these two classmates were holding these positions of honor. 1833-1837

After graduation at Yale he spent the winter of 1837-38 at Windsor, Vermont, reading law in the office of Horace Everett, an eminent lawyer of Vermont, and conducting a private school for boys. 1837-1838

The year 1838-39 was spent at the Dane Law School in Cambridge, under Judge Story and Professor Greenleaf. In the fall of 1839, he entered the office of Daniel Lord, in New York City, as a law student, where he remained until his admission to the bar. He was admitted as an attorney of the New York bar at Utica, 1838-1841

\*Jeremiah Evarts (1781-1831), a graduate of Yale College in the class of 1802 and a lawyer by profession, was for several years editor of the "Panoplist," a religious monthly magazine published in Boston. He was treasurer and corresponding secretary of the American Board of Commissioners for Foreign Missions. In 1804 he married Mrs. Mehetabel (Sherman) Barnes, the widow of Daniel Barnes. She was a daughter of Roger Sherman, of New Haven, Connecticut, one of the signers of the Declaration of Independence.

The number of the house in Pinckney Street, Boston, in which their son, William Maxwell, was born, has since been changed by the city authorities, upon a renumbering of the houses on that street. The number is now 57.

New York, on July 16, 1841. He took the oath as counsellor in chancery, in New York June 4, 1846, and signed the roll.

He was also admitted to practice as attorney and counsellor in the courts of Massachusetts September 13, 1841.

On October 1, 1841, he opened his office at 60 Wall Street, and on the 14th of that month received a retainer of \$50 for the defence of Monroe Edwards, the notorious forger.

1842 In January, 1842, he received from Mr. Charles E. Butler a proposal of partnership, which resulted, shortly after in that year, in the formation of the firm of Butler and Evarts, associated with Mr. Jonathan Prescott Hall as counsel. This firm with its successors in which Mr. Evarts was a partner covered a period of nearly sixty years. On January 1, 1852, Mr. Charles F. Southmayd became a partner and the name of the firm was changed to Butler, Evarts and Southmayd; Mr. Butler retired from practice December 31, 1858, but resumed practice as a member of the firm after three years' retirement, and for a brief period of five months the firm name was Evarts and Southmayd. On June 1, 1859, Mr. Joseph H. Choate and Mr. J. Evarts Tracy became partners, and the firm for the succeeding twenty-five years was known under the name of Evarts, Southmayd and Choate; Mr. Southmayd retired from practice July 1, 1884, and the firm became Evarts, Choate and Beaman, by placing in the firm name that of Mr. Charles C. Beaman, one of the members, at that time, of Evarts, Southmayd and Choate. After the death of Mr. Beaman, in December, 1900, and of Mr. Evarts in February, 1901, the firm of Evarts, Choate and Beaman was dissolved.\*

1843 On August 30, 1843, Mr. Evarts married, in Windsor, Vermont, Helen Minerva Wardner, daughter of Allen and Minerva (Bingham) Wardner.†

\*The successor to these firms, at the present time (1919) is the firm of Evarts, Choate, Sherman and Léon, having offices at 60 Wall street, the same address as that of Mr. Evarts's office when he started as a member of the bar in 1841.

†Allen Wardner (1786-1877) was born in Alstead, New Hampshire. He moved, early in life, to Windsor, Vermont, where he became a successful country merchant and banker. His children were born and brought up in Windsor. He died on August 29, 1877, over ninety years old, leaving three sons and four daughters surviving. He was at one time State Treasurer of Vermont and throughout his life a respected and honored citizen of the Town of Windsor.

He was admitted to practice in the United States Supreme Court upon the motion of Daniel Webster, February 15, 1847. 1847

During the years from 1849 to 1853 he was assistant United States Attorney for the Southern District of New York, under Mr. Jonathan Prescott Hall. 1849-1853

In the decade preceding 1860 Mr. Evarts was prominently and actively engaged, as a private citizen, in the great public movements that were in progress in this country in the contest against the slave power for political supremacy. His professional employments were constantly increasing in volume and in the importance of the interests involved. Among the more notable were the Parish Will Case and the Lemmon Slave Case. 1850-1860

In January, 1860, representing the State of New York, he argued, in the New York Court of Appeals, the Lemmon Slave Case, against Mr. Charles O'Connor, appearing for the State of Virginia. 1860

Mr. Evarts, as chairman of the New York delegation, in the interest of Mr. Seward, attended the Republican Convention, in May, 1860, that nominated Mr. Lincoln for the Presidency.

On the appointment of Governor Seward as Secretary of State in March, 1861, Mr. Evarts was put forward as a candidate before the New York Legislature, for election to the United States Senate to fill the vacancy caused by the retirement of Mr. Seward. Horace Greeley was a competitor and the canvass resulted in a compromise by the election of Judge Ira Harris. 1861

On the breaking out of the Rebellion, Mr. Evarts was active in the formation and organization of the Union Defence Committee in New York, of which he became the secretary. In this year he was retained by the Government in the case of the Savannah Privateers and in the Prize Causes.

In February, 1863, the Prize Causes were argued in the United States Supreme Court, Mr. Evarts appearing for the Government.

In April, 1863, Mr. Evarts was sent by the Government on a private mission to England, in a professional capacity, to prevent the escape of any more vessels built and equipped for the Confederate navy, and also with a view of influencing, as far as possible, the attitude and opinions of the public men of England, in reference to the Civil War. He returned to America in July, but, again, on December 30, 1863, sailed for Europe on a similar errand, which took him to Paris as well as London. He returned in June, 1864. 1863-1864



In the fall of that year, upon the death of Chief Justice Taney, the appointment of Mr. Evarts to the Chief Justiceship was strongly urged upon President Lincoln, and it was generally understood at the time that, if Mr. Chase had declined the appointment, Mr. Evarts would have been selected.

1867 In 1867 he was engaged by the Government in the prosecution of Jefferson Davis for treason.

In the same year he was a delegate to the New York Constitutional Convention, in which he served on the Judiciary Committee.

1868 In March, 1868, Mr. Evarts accepted the engagement as counsel for President Johnson in the Impeachment Trial. He served in President Johnson's cabinet as Attorney-General from July 15, 1868 to the close of Mr. Johnson's term of office in March, 1869.

On retirement from this position, he resumed his place at the bar of New York.

1872 In 1872 Mr. Evarts was employed in association with Caleb Cushing and Morrison R. Waite as counsel for the United States before the Tribunal of Arbitration at Geneva.

1874-1875 In August, 1874, he was retained for the defendant in the case of *Theodore Tilton vs. Henry Ward Beecher*, in the trial of which he was engaged during the first five months of 1875. Upon its close he again took up his varied and important employments at the bar.

1876 On July 4, 1876, he delivered the Centennial Oration at Philadelphia.

1877-1881 In February, 1877, as counsel for the Republican party, he sustained its claims before the Electoral Commission, in the disputed Presidential election.

On the accession of President Hayes, Mr. Evarts was appointed Secretary of State, a position that he held throughout that administration.

1881-1885 In 1881 President Garfield appointed Mr. Evarts head of the delegation to the Monetary Conference held in Paris.

After his return from this mission, in the fall of 1881, he again resumed his usual professional employments. Among the cases of contemporary note in which he was engaged, in the period between 1881 and his election to the Senate in 1885, may be mentioned *Story vs. The New York Elevated R. R. Co.*, which he argued in the New York Court of Appeals, and the Stokes Will Case and the

Hoyt Will Case, in both of which he appeared for the proponents before the Surrogate of New York County.

In January, 1885, he was elected by the Legislature of New York as United States Senator from that State, for the term beginning March 4, 1885. In the summer of 1889 he went to Europe, to consult eminent specialists, in Carlsbad, in regard to the serious impairment of his eyesight which had overtaken him and from which there was no recovery. Just before his departure on this errand, and on June 12, 1889, Mr. Evarts argued for the respondents, in the New York Court of Appeals, the case of *Post vs. Weil* (115 N. Y. 361), Mr. James C. Carter appearing for the appellants. In this, the last appearance of Mr. Evarts in court, he was successful in maintaining his contention and that of his associates in a litigation of long duration, involving large interests of real property in New York; the case is a leading authority in the New York courts on the important questions of real property law involved.

On the close of his term in the Senate, Mr. Evarts lived in retirement. He and Mrs. Evarts celebrated their golden wedding anniversary August 30, 1893. He died in New York City, February 28, 1901, leaving his widow and nine of his twelve children surviving. His widow died in Windsor, Vermont, December 27, 1903.

1893  
1901

31-2221  
1251











